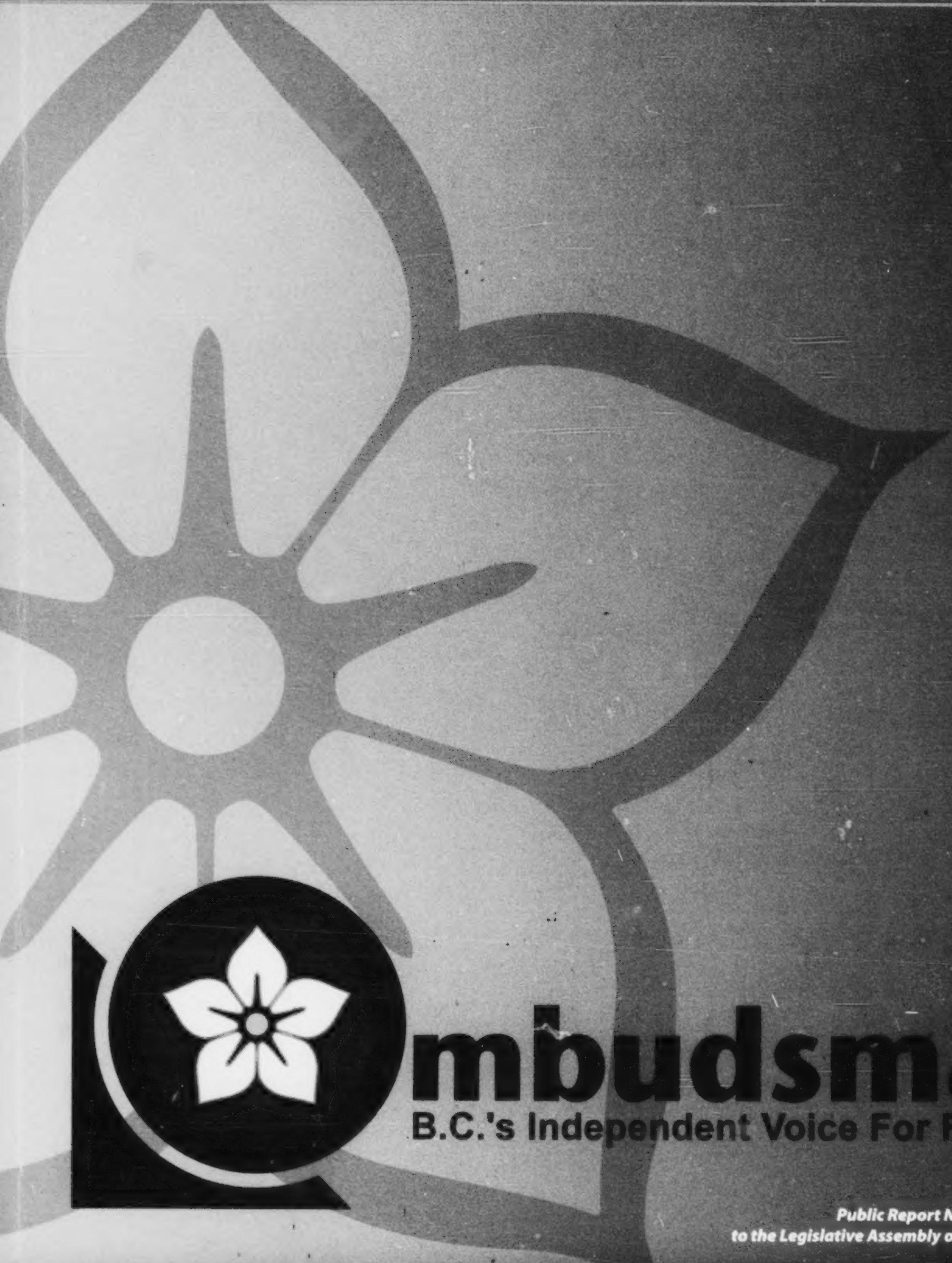
Last Resort: Improving Fairness and Accountability in British Columbia's Income Assistance Program



Ombudsman

B.C.'s Independent Voice For Fairness

Public Report No. 45, March 2009
to the Legislative Assembly of British Columbia

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From the Ombudsman

In February 2005, the BC Public Interest Advocacy Centre (PIAC), a non-profit organization that advocates on behalf of disadvantaged and low-income people, raised a number of concerns with the Ombudsman's office on behalf of people applying for or receiving income assistance in British Columbia. PIAC represented a coalition of non-profit community advocacy agencies from across the province who believed certain procedures used by the Ministry of Employment and Income Assistance (now the Ministry of Housing and Social Development) unfairly or unreasonably limited access for those who needed such assistance.

The previous Ombudsman, after considering the information provided, initiated an investigation into five areas. In Special Report No. 28, released in March 2006, we reported the results of our investigation into three of these areas.

This is our final report on this investigation. Part I sets out the income assistance process; Part II details the results of our office's investigation into the ministry's processes related to providing services to Persons with Persistent Multiple Barriers to Employment; Part III details the results of our investigation into the ministry's requirements for medical and other documentation; and Part IV is a review of the implementation of commitments made in 2006.

The investigation highlights one of the less well-known benefits of the Ombudsman's office in this province. During the course of our lengthy investigation, the organization we were examining had the opportunity to take a serious look at a number of its procedures and made some positive changes, such as the initiative to simplify its income assistance application process.

While I am pleased that the majority of our recommendations have been accepted and will in the near future be implemented by the ministry, I am understandably disappointed that Recommendation 23, dealing with compensation to individuals adversely affected by the ministry's delay in initiating a regulatory amendment, was not accepted.

I want to acknowledge the cooperation of many staff in the Ministry of Housing and Social Development throughout this lengthy investigation. I would also like to thank PIAC — this report is a direct result of its action.

I believe the improvements in fair and reasonable public administration made as the result of the recommendations that have been accepted and will be implemented will benefit all British Columbians, not only those among us who apply for or receive income assistance. Ultimately the ministry's actions are the model for the British Columbians it serves — it is the face of British Columbia for those in need in our province.

Kim J. Carter

Kim Carter
Ombudsman
Province of British Columbia

Executive Summary

The Ministry of Housing and Social Development (formerly the Ministry of Employment and Income Assistance) has, as one of its principal roles, ensuring that British Columbians who are in need receive the supports that we, as a society, have determined are appropriate. At the same time, it is required to assist those who are capable to prepare for, and obtain, employment.

One of the continual challenges the ministry faces is how to distinguish between those who are capable of self-sufficiency and those who need ongoing assistance from society to ensure their well-being and enhance their ability to participate as useful and valued members of society.

This significant role makes the ministry the face of British Columbia for those in our society who are facing serious economic, social and health challenges, or in some cases, challenges in all three areas. Consequently it is particularly important that the ministry model the fair, courteous, consistent, and reasonable treatment we would expect any person in British Columbia to receive when dealing with a public agency. This is reflected in the ministry's own core values of respect, empathy, equity, fairness, accountability, transparency and open communications. In the course of this investigation we have looked at whether certain procedures and practices of the ministry appear to reflect those values and are consistent with the ministry's stated goals and role.

In this report, I made 26 findings and 28 recommendations for rectifying deficiencies and improving administrative processes. These focussed on the areas of the income assistance application process; the Persons with Persistent Multiple Barriers to Employment program; medical and other documentation requirements; and implementation of prior commitments. All but one of the recommendations was accepted by the ministry; some are already in the process of implementation and the ministry has committed to implementing the rest over the next two years.

Applying for Income Assistance

The Application Process

Governments decide what programs they will establish. If those programs are ones that provide benefits to eligible applicants, then government decides to whom, and under what circumstances, those benefits will be provided. Ministries and ministry staff administer those programs. Ministry staff may simply apply clear and comprehensive rules, but increasingly there has been a move to allowing for flexibility and the exercise of discretion by staff in determining who falls into the category of an eligible applicant and whether a certain situation results in eligibility for benefits. This places a greater responsibility on the ministry to ensure that the program's procedures, its "system design," helps in achieving the program's goals.

In the case of program eligibility, whether it is for a business licence, a homeowner's grant, or income assistance support, a basic principle is that the benefit, whatever it may be, should be made known to and be reasonably accessible to the group of people the government has designed it to assist.

The income assistance program in British Columbia is designed to assist those British Columbians most in need and to help those who are able to work to achieve sustainable employment. Applicants include people who have very few resources and little or no income, as well as people who face significant barriers to employment, including physical and mental health problems and linguistic or literacy challenges. Reasonably, the program needs to be designed to facilitate individuals in these types of difficult circumstances being able to apply. It should not be a process that is so difficult or complicated that it discourages the group of people who it was set up to assist from applying.

If you have exhausted your resources, many people believe that you can go to a ministry office, fill out an application form for income assistance, and if you meet the requirements you will receive support. In fact the process is much more complex (see Appendix D).

Currently applying for income assistance is a two-part process. During the first stage, the ministry assesses whether an applicant has to complete a three-week work search before proceeding further with the application or whether the applicant is exempt from that process.

During the initial interview, ministry staff can use an income assistance estimator to calculate the amount of assistance that an individual might receive and provide a preliminary, and non-reviewable, estimate of whether an individual is, or is not, eligible for any assistance. In addition, at several times during the first stage ministry staff provide an applicant with information and on each occasion may ask whether a person still wishes to proceed. This raises a concern as to whether the current pre-application process may discourage qualified applicants from proceeding to the second stage where their eligibility for benefits is actually assessed.

If an applicant is assessed as having an "immediate need," such as having no food, nowhere to live, or is fleeing an abusive relationship, then the ministry policy is that the applicant should receive an eligibility interview within one business day of being assessed as having that immediate need. If an applicant is exempt, for one of the other reasons set out in regulation, then an eligibility interview should occur within five business days.

If, however a person is not exempt, he or she is required to complete a three-week work search. It may then take up to a month to complete the entire application process. This normally involves an applicant completing five work search activities a day; accessing and using the ministry's online income assistance estimator tool to evaluate eligibility; completing, along with other adult members of his or her family, a web-based orientation session; calling back after 14 days to allow an evaluation of whether the job-search requirements have been met; and providing any documentation required by the ministry to assess the applicant's eligibility.

The ministry's simplification initiative, which commenced in June 2007, has led to improvements in the process. Prior to October 2007, it was up to a person applying for income assistance to raise the issue of any immediate needs. Now, ministry staff are directed during the first interview to ask people a series of questions to determine if they have immediate needs. Since December 2008, the ministry can obtain verbal consent from clients so that its verification of information can begin before the eligibility interview is conducted and it allows applicants to use digital photographs to reconfirm their identity rather than requiring them to return to an office to do so.

While I am encouraged that the ministry has been inspired to simplify the application process I believe that, given the complexity of the current process and the physical, mental, emotional, and social challenges faced by many applicants simplification efforts must continue. Consequently I have recommended that the ministry on an ongoing basis simplify the application process with the goal of minimizing the challenges for applicants, and report publicly, on an annual basis, the results of that work.

The application process remains complex. It can also be complicated by the fact that in many areas, much of the process is conducted by phone as there is no ministry office that a person can go into to seek assistance. As well, an applicant may deal with any number of different employment and assistance workers (EAWs), as workers are not assigned to particular applicants. Consequently, a clear understanding of the process is needed to navigate its requirements and ensure any exemptions are properly applied. Currently, applicants are not provided with a clear written explanation of the steps involved in the process when they commence their applications. I have therefore recommended that by October 1, 2009 the ministry enhance the material it provides to applicants at that initial point of contact by including a clear written explanation of the steps involved in applying for income assistance.

While it is appropriate and necessary for the ministry to ensure that only qualified applicants receive benefits, it is equally important that the ministry does not discourage potentially qualified applicants from commencing or completing the application process. The measure of success for the ministry is the number of properly qualified people who complete the process and receive the correct benefits and assistance, not the number of people who do not complete the application process. Consequently, I have recommended that certain actions that may discourage potentially qualified applicants from completing the application process be changed by July 1, 2009. Those recommendations are directing staff not to provide non-reviewable preliminary opinions of a client's eligibility; minimizing the number of times staff ask a person whether they wish to continue with an application and always preceding that question with a confirmation that it is the person's right to continue; and not immediately closing a file if a person fails to contact the ministry at a specified time (such as after 14 days), but rather leaving the file open for 90 days to allow it to be reactivated, provided the applicant meets the ministry's other requirements. The ministry indicates it has already implemented the majority of these actions.

The Three-Week Work Search

As mentioned earlier the three-week work search is an important aspect of the current income assistance application process. In 2005, the ministry introduced exemptions for various groups to the requirement to complete the three-week job search before receiving an eligibility interview. In the course of our investigation, we heard from people who could not understand why they had to conduct a three-week job search before having their eligibility for income assistance assessed, when they had been looking for work in the three weeks immediately before beginning the income assistance application process.

Given that these individuals could demonstrate that they had been actively looking for work immediately prior to the first stage of the application, there did not appear to be any rationale, provided they met the other criteria, to require that they spend another three weeks looking for the same work that had been unavailable in the previous three weeks. Clearly these individuals had shown an interest in and commitment to finding work. The additional delay resulting from the three-week work search requirement seems to do little other than prolong the period they are ineligible for assistance and, very likely, increase the urgency of their needs.

Another anomaly was the requirement for single parents with children under the age of three to conduct a three-week work search when, after completing it, if they were determined to be eligible for income assistance, they did not have an obligation to look for work.

We also heard about situations where people fell into the category of people who were exempted by ministry policy from the requirement to conduct a three-week work search, but were told by a ministry staff person that they had to conduct a three-week "community resources search." The ministry provided us with a copy of a directive dated November 2006 that clarified to staff that clients who were exempted from a three-week work search "can proceed immediately to Stage 2 of the application process…without a waiting period." Community resource searches were specifically identified as having no legislative or regulatory foundation.

The ministry confirmed to us that the practice that is to be followed for scheduling Stage 2 appointments is that applicants who are assessed as having an immediate need are to be scheduled for the next possible eligibility appointment, and those who are exempt from the three- week job search on grounds other than an immediate need are to be scheduled for the next available regular eligibility appointment, which is usually within five business days.

Ombudsman staff conducted a review of 250 randomly selected files from April and May 2006, 2007 and 2008. This represented between 3.04 and 4.78 per cent of the total number of files opened in those months.

We assessed, among other things, how many days it took for applicants exempted from the work search requirement to have an eligibility appointment. In 2006, the average length of time was 8.32 days; in 2007 4.29 days and in 2008 5.76 days.

While we did not see any specific reference to "community resource searches" in our review of ministry files, we did find that 56 per cent of people exempt from the three-week work search in 2006 waited three or more weeks for an eligibility appointment. Twenty-four per cent of people exempted from the three-week work search in 2007 waited two or more weeks for an eligibility appointment and 21 per cent of people exempted from the work search in 2008 waited two or more weeks for an eligibility appointment. No reasons for these delays were documented.

I found that the requirement for applicants who had just completed an active three-week work search immediately prior to applying for income assistance to do so again before having their eligibility for income assistance assessed was unreasonable. Equally, I found the requirement for a single parent with a child under the age of three to conduct a three-week work search before having their eligibility for income assistance assessed was unreasonable, given that they would no longer be required to look for work once their eligibility was determined.

I recommended that the ministry take the necessary steps to include an exemption from the three-week work search in the *Employment and Assistance Regulation* in both these situations.

In addition, given the results of our file review, I concluded that the ministry does not consistently provide applicants who are exempt from the three-week work search an eligibility appointment within five days. I therefore recommended that the ministry continually improve its performance in this area in order to comply with its own, self-imposed service standards.

Immediate Needs Assessments

During our initial investigation, the ministry told us that applicants identified as having emergency (now called immediate) needs were given eligibility interviews within 24 hours of these needs being identified. We continued to hear, however, of situations where that did not occur.

Our file review disclosed that in 2006 it took an average of 2.5 days from the time the applicant stated an immediate need until he or she received an eligibility interview. In 24 per cent of files ministry workers did not conduct an eligibility interview on the same day. In the ministry's Vancouver Island region in 2006, it was 48 per cent (see Appendix G for more detail).

In 2007 this average improved. It took a total of 1.4 days between the time an applicant indicated an immediate need and when an eligibility interview was conducted.

In 2008, there was the least delay between an initial contact and the identification of an immediate need (an average of 0.6 days). This appeared to be a result of the October 2007 simplification initiative change, which required ministry staff to ask questions of applicants to assist in identifying an immediate need, rather than leaving it to the individual to identify that immediate need. Overall however, the time that elapsed between the identification of the immediate need and the eligibility interview increased to an average of 1.6 days.

In addition, our review disclosed several situations in which applicants, despite indicating an immediate need, were not assessed to determine whether they had one. In other cases, applicants were not assessed when they first made contact, but on their return a few days later were assessed, based on the same information, by a different staff member as having an immediate need and given an expedited eligibility appointment.

This information raised concerns that the treatment that individual applicants receive can vary widely depending upon the region or office they dealt with or even the individual staff member who handled their particular file. Such inconsistency in these types of situations is not desirable. Nor is non-compliance with the ministry's own service standards.

Consequently, I recommended the ministry continuously improve its compliance with its service standard of providing an eligibility appointment within one business day to individuals with an immediate need. In addition, I recommended the ministry work towards ensuring compliance with its policy on immediate needs assessment and increase the consistency of assessments by regularly providing training in this area to staff; regularly auditing staff compliance; and reporting publicly on the results of those audits on an annual basis.

Two-Year Financial Independence Requirement

Currently, to be eligible to receive income assistance, an applicant or a member of the applicant's family must demonstrate he or she has been financially independent for at least two consecutive years. As defined in legislation this means the person has worked for at least 840 hours in each of two consecutive years or earned at least $7,000 in that period of time. The stated purpose of this requirement is to encourage people, particularly young people, to achieve independence and to emphasize that income assistance is a payer of last resort.

At the time this requirement was introduced in 2002, and subsequently, a long list of specific exemptions were also put into legislation or regulation, apparently to address concerns that this financial independence requirement could deny eligibility to applicants that it was not intended to exclude. Those affected might include individuals who could not meet the requirement because of long-term physical, or mental health problems.

Between October 2002 and July 2008, the ministry identified 5,650 applicants who were determined to be ineligible for income assistance because they could not demonstrate they met the financial independence rule.

In addition to the specific exemptions found in regulation, in 2006 the ministry issued a policy that allowed district supervisors to use their discretion to exempt applicants from this requirement if they were satisfied that the inability to comply was due to factors beyond the control of the applicant and the applicant would experience undue hardship if he or she was denied income assistance.

I found it encouraging that the ministry identified the undesired adverse consequences of this requirement and took steps to mitigate them, but was concerned that it did not appear to have the legal authority to create a policy that allows supervisors to exempt an applicant from a regulatory requirement.

It is clear that without some flexibility and discretion, this requirement could be a classic catch-22 situation. An individual who, because of a medical condition or other barrier, has been unable to sustain employment could then be denied eligibility for income assistance as a consequence. In some cases, the people most in need may be the very same people who are unable to demonstrate financial independence. I found that was both unreasonable and unfair.

I recommended that the ministry take the necessary steps to resolve this potential for unfairness by either seeking further exemptions or by providing legal authority for supervisors to waive the requirement by March 31, 2010.

Changes in Income Assistance Caseload

The number of people in British Columbia who receive income assistance has been declining since 1995 and this trend has intensified since the 2002 changes to the application process and eligibility criteria. The most significant decline since 2002 is in the category of employable or "expected to work" clients, which declined 70 per cent between 2002 and 2007.

Interestingly, the ministry indicated to us that it does not track the number of income assistance applications it approves or denies. It confirmed that currently it can track the number of people who apply for income assistance and the percentage who are actually paid under the program.

The ministry, perhaps understandably, is inclined to attribute the continuing decline to success in assisting employable clients to move off income assistance and into the workforce. Its reporting, however, does not address what happens to the significant number of people who begin the income assistance process but never proceed to the stage of having their eligibility assessed at an eligibility interview. In 2005, this was approximately 45 per cent of all applicants; in 2006 approximately 41 per cent; and in 2007 approximately 35 per cent. The ministry indicated it believed there were several reasons why an individual would not complete the application process, including finding employment; moving out of province; finding new sources of income; and self-assessing their own ineligibility to receive income assistance. It pointed out that applicants are not required to tell the ministry why they do not continue with an application to the point of having their eligibility determined.

Given the purpose of this program and the high percentage of people who did not complete the process, we wondered why the ministry did not track what happened to these individuals, as doing so would assist in determining whether the income assistance caseload reduction is a result of more people leaving for paid work; fewer people accessing and qualifying for income assistance; or a combination of both.

Happily, the ministry does have the ability to track what happens to people. For its February 2007 report *Outcomes of Those Leaving Assistance* the ministry used social insurance numbers, obtained clients' consent and had tax data used to determine how many clients went on to paid employment.

Given that the ministry collects social insurance numbers from people at the pre-application stage, it could use the same process to track what happens to people who abandon the application process. I believe this would be a reasonable and prudent step for the ministry and would assist in accountability and determining whether the income assistance process is achieving its goals.

I have recommended that by July 1, 2009 the ministry track the number of applications it receives and whether an application is approved, abandoned or denied. The ministry has agreed to use Statistics Canada data to track whether people who abandon an income assistance application move on to employment or an educational program within two months and report this data publicly by September 1, 2010. The ministry will also develop reliable and effective mechanisms to track and publicly report these results on an annual basis beginning in 2011.

I believe that the ministry's acceptance and implementation of these recommendations will both improve the fairness of the income assistance process and its ability to assess that the income assistance program is achieving its goals of assisting those British Columbians most in need and helping those who are able to work to achieve sustainable employment.

Persons with Persistent Multiple Barriers to Employment (PPMB)

One of the new concepts introduced by the 2002 legislative changes was that of Persons with Persistent Multiple Barriers to Employment. This was a group of people who were not expected to work, but neither did they meet the criteria for disability. The intent of the PPMB program is to recognize that barriers may affect a person's ability to seek, obtain and maintain employment and that this should be taken into account in assessing eligibility for assistance and applying exemptions.

People who are assessed as eligible for the program receive a higher level of support ($9.40 a day for a single person with no dependent children rather than $7.80) as well as up to $375 a month for a shelter allowance. In addition, people with PPMB status can apply for extra health supplements; are not expected to work; can earn up to $500 a month without losing benefits; and are exempt from the time limits imposed on ordinary income assistance recipients.

There are two procedures set out in regulations that describe how a person on income assistance may qualify for this program. Both procedures require that a person has been on income assistance for 12 of the previous 15 months and currently have a frequently occurring or continuous medical condition (other than an addiction), which has been confirmed by a physician, and is likely to continue for at least two more years.

If the medical condition is assessed by a ministry adjudicator as so severe that it precludes employment, then an individual can qualify for the PPMB program. If the medical condition is less severe and is assessed by the ministry as only seriously impeding employment, then in order to qualify for the program, the individual must also score at least 15 on the ministry's employability screen and therefore be considered to have barriers that seriously impede employment. The applicant must also satisfy a ministry adjudicator that he or she has taken all reasonable steps to overcome those barriers.

The employability screen is a tool the ministry uses to identify people who are expected to work and also to assess whether clients have barriers to employment. It identifies factors such as past dependency on assistance, recent work history, education, age, literacy and English proficiency.

An individual who has PPMB status has his or her eligibility for the program reassessed every two years.

PPMB Eligibility Criteria

One of the concerns that we had about the PPMB program was why people who already had pre-existing and severe health problems that clearly posed multiple barriers to employment when they began receiving income assistance had to wait for at least 12 months to be assessed for PPMB status.

The ministry explained that its rationale was that it was difficult to determine at the outset whether a person's health might improve and he or she could perhaps overcome their barriers to employment. The 12-month period allowed the ministry to assess this and also to use the employment planning process and the employability screen to develop an employment plan for clients that would help them overcome the barriers they face.

We conducted a review of 25 PPMB files selected on a random basis. We found several examples of people who at the time of their application for income assistance had a severe medical condition that left them unable to work. During the 12-month waiting period these clients had few or no obligations in their employment plans and there was clearly nothing that the ministry could offer in the way of training and support that would help them overcome their real barriers to employment, which were their medical conditions.

When there is a reasonable likelihood that, with the help of the ministry, a person may be able to overcome his or her barriers, the 12-month waiting period may be appropriate to allow this process to unfold. However, for people who clearly have barriers they are unlikely to overcome in 12 months, such as a medical condition, the requirement to be on income assistance for 12 of the previous 15 months before being assessed for the PPBM program is unreasonable and unfair.

I recommended that the ministry take the necessary steps to include an exemption from the requirement to be on income assistance for 12 of the past 15 months in the *Employment and Assistance Regulation* for people who, at the time they apply for income assistance, have barriers that no program can remedy.

Confirmation of Medical Condition

In order to be assessed for PPMB status, clients must submit a medical report form to the ministry. The form, filled out by a client's doctor, must confirm the person's diagnosis, the duration of his or her medical condition, and explain any restrictions that should be considered when determining the impact of the condition on the person's ability to work or participate in job training. We reviewed the form in light of its importance in the PPMB assessment process.

The form does not ask doctors to provide information on the effect of a medical condition on a person's ability to work, even though the ministry seems to consider this useful and relevant when PPMB applications that have been denied are being reconsidered.

Part Five of the medical report form asks doctors to indicate whether they have been the client's doctor for more than six months. Given the transient nature of the lives of many income assistance clients, the difficulty of finding a family doctor, and the increasing use of walk-in medical clinics we found it somewhat surprising that the ministry found this important information. It was not obvious how this was relevant to determining PPMB status, so we asked the ministry why it wanted to know this. The ministry explained that it provided its adjudicators (generally people without medical training) with historical perspective and additional context in relation to doctor-patient relationships, but had no effect on the eligibility determination.

Nevertheless, the concern that I had was that somehow the length of the doctor-patient relationship might be seen, if less than six months, as somehow devaluing the doctor's information.

Another concern we looked into was whether the ministry might deny clients PPMB status because they had not provided sufficient information to prove their medical conditions impeded or precluded them from working. We looked at the case of Ms P whose PPMB eligibility was being reviewed after two years. When the ministry determined she was no longer eligible for PPMB status, she asked for a reconsideration.

At the reconsideration, in addition to other chronic medical conditions, a report from her cardiac specialist confirmed she had a high, irregular heart beat that left her fatigued after minimal effort and she was therefore unable to maintain employment. There was no conflicting medical information.

The ministry adjudicator denied PPMB status to Ms P on the grounds that many types of employment are sedentary and do not require physical exertion. The Employment and Assistance Appeal Board overturned that decision.

We asked the ministry whether a completed medical report form alone would be considered sufficient or whether other documentation was required. Ministry staff confirmed a completed medical report form alone would be considered sufficient as long as it provided the diagnosis; the duration of the condition; the severity of the condition; and the nature of any resulting restrictions arising from the medical condition. This highlighted for us the importance of doctors understanding how to complete the form correctly and of the form being designed to allow them to provide all useful information. It is not evident that this is currently the case.

I recommended that the ministry revise the PPMB form so that it provides information to doctors about the program and its documentation requirements; provides an opportunity for doctors to include information on how the clients' medical conditions affect their ability to work; and removes the request for information about the length of time a doctor has been seeing a patient.

Definition of "precludes" or "seriously impedes"

As a result of our investigation in 2005, the ministry on March 1, 2006 rectified an inconsistency in the definitions of "seriously impedes" and "precludes" in relation to a person's ability to search for, accept or continue employment, to ensure they were compatible with the provisions of the *Employment and Assistance Regulation*.

The new definition of "seriously impedes" is that the recipient is "unable to participate in any type of employment that would enable independence from income assistance." The new definition of "precludes" is the recipient is "unable to participate in any type of employment for any length of time, except in a supported or sheltered-type work environment."

We continued, however, to receive complaints that these definitions are not being properly applied. The case of Mrs W illustrates this. Her chronic medical conditions made it difficult to sit or stand for long periods or to drive. She was assessed as ineligible for PPMB status and, on reconsideration, an adjudicator explained that her medical conditions did not seriously impede her ability to search for, accept or continue "all" types of employment. The definition since 2006 of course is not "all" but "any type of employment that would enable independence from income assistance."

Our concern is that the ministry is not consistently applying its own definitions. Consequently I have recommended that the ministry conduct a file review to determine its own level of compliance with the definitions of "seriously impede" and "preclude" when its staff are determining eligibility for the PPMB program and report the findings publicly.

Although the ministry has been audited by the Ministry of Finance's Internal Audit and Advisory Services, its focus was on the correct use of these criteria in preliminary assessments of client eligibility by staff who put together the material for consideration by adjudicators, not on their correct use by adjudicators themselves.

Employability Screen

The employability screen is a tool used by the ministry to assess some of the barriers faced by income assistance clients in obtaining and retaining employment. The higher the employability screen score, the more barriers an individual is assessed as facing. However, there appear to be some inconsistency in the scoring process. Under the education section for example, an individual with a post-secondary degree or diploma is given a score of one, while a person who completed high school is scored at zero.

In addition, we have heard concerns that scores on the screen have fluctuated significantly when there has been no significant change in circumstances. We have also observed this in our own file reviews.

The employability screen is not, therefore, a consistently reliable tool to determine the extent of clients' barriers to employment. Consequently, I have recommended that the ministry conduct a detailed review of its effectiveness and publicly report the results by December 1, 2009.

The PPMB Assessment Process

One of the most unusual aspects of the PPMB program is that there is so little information about it provided to clients. In part, the explanation provided by the ministry for this is that people are not expected to apply for this benefit. Instead, ministry staff will initiate the process when they determine it is appropriate. In fact, there is no application form for the PPMB program as there is for income assistance or the Persons With Disabilities (PWD) program.

An additional concern is that under the current system, income assistance clients no longer have a single "case worker" at the ministry. Clients may come in or call and speak to a person they are familiar with, or who is familiar with their situation, or someone from another office or area who has only the information recorded on the database to work from. From the perspective of familiarity with an individual's challenges and the likelihood of being identified as qualifying for PPMB benefits, this diffuse approach makes it less likely that relying on ministry staff to identify circumstances will be as successful as informing people of the program and allowing them to apply themselves.

I have therefore recommended that the ministry provide clear written information about the PPMB program to all people applying for income assistance and create a form that clients can use to apply for PPMB status by March 31, 2010.

The Number of PPMB Clients

It is clear that the number of people receiving PPMB benefits is declining. It has decreased by 28 per cent since 2003/2004 and is now at the lowest level since the program was introduced. This is clearly contrary to what the ministry's staff initially anticipated, as well as statements that indicated that the numbers were increasing. There does not appear to be a reliable explanation as to why this is the case.

In October 2006, during the first part of this investigation, the ministry informed our office that due to its ongoing concerns about this program it would conduct an audit. The results of the audit were expected in April 2007. I believed the ministry's action was appropriate and prudent as it would presumably indicate why there was a downward trend in this area. ,

In June 2007 when we inquired about the results of the audit, we were advised it had been cancelled. There appears to have been confusion over which agency would be taking what action.

Three days after our inquiry it was reinstated.

At the time this report was being published, a draft audit report had been completed but not yet finalized. In its draft form, the audit appears to identify several issues consistent with those discussed in this report. However it appears that a comprehensive explanation for why there has been such a significant reduction in the number of PPMB clients has not yet been provided.

I have therefore recommended that the ministry complete a review of the PPMB program to determine the reasons for the reduction in caseload since 2003/2004 and report publicly on the results by October 1, 2009.

Medical and Other Documentation Requirements

The focus of this part of our investigation was the fairness and reasonableness of the ministry's documentation requirements. Not unexpectedly, in order to apply for and obtain benefits ministry clients are required to submit a variety of documents. Our focus was whether all the documents that were being asked for were required, or whether any were simply being asked for to make administration easier for the ministry. We specifically looked at requiring clients to resubmit medical information when their medical condition was chronic or continuing and requiring clients to submit new sets of the same information for each different benefit they received.

Requiring Clients with Chronic or Ongoing Conditions to Resubmit Medical Documents

One of the issues raised with our office in 2005 was that the ministry's practice of repeatedly requesting reconfirmation of chronic or ongoing medical conditions could have a detrimental effect on the people it was meant to assist. Not only is resubmitting documents a challenge and sometimes costly for many clients, it can be frustrating for medical professionals, and may damage the doctor-patient relationship.

During the course of this investigation, a number of improvements to administrative processes have been implemented by the ministry. In 2005, the ministry would only authorize a diet supplement for a maximum of one year, even if the condition requiring it was chronic. We asked why that was. In response, the ministry reviewed and then streamlined its policy. Today, a diet supplement is reviewed based on the medical assessment of the expected duration of the need, and in the case of an ongoing medical condition, up to two years after the date it is first approved. When a review is conducted, new information is not required if the information on file supports a continuation of the supplement due to a chronic or ongoing medical condition.

Medical Transportation Supplements

At the outset of this investigation, the ministry's medical transportation supplements only covered the cost of travel for "extraordinary and predictable appointments" for a maximum of six months. Extensions were only considered after a re-verification of the need by a medical practitioner. We asked why it was necessary to re-apply if a medical practitioner had, at the outset, identified the duration of treatment as lasting more than six months.

The ministry reviewed and revised its policy. Now medical transportation supplements may be authorized for up to 12 months and on review, if the information on file supports a further extension, it can be granted. If not, ministry staff can ask the client for permission to contact her or his doctor directly to confirm the continuing need. Since September 1, 2007, the ministry's policy is that medical transportation supplements will only be discontinued after ministry staff have notified clients of the decisions and the reasons for them and been informed of their right to have the decisions reconsidered. The administrative obligations are now on the ministry, not the client.

Medical Supplies and Nutritional Supplements

Again, the ministry has revised these policies so that they respond to medically indicated needs, rather than simply to administratively convenient timelines.

Other Health-Related Supplies

While satisfied that the ministry has addressed the individual supplements outlined above, there are other health-related supplies — for example, masks and filters — where the ministry's policies have not yet been revised to establish medically indicated needs as a determining factor, and clients are still being required to reconfirm chronic or ongoing medical conditions to continue to receive health-related supplements.

I have therefore recommended that the ministry review its policies and procedures on an ongoing basis to identify and eliminate any circumstances in which clients with chronic or ongoing medical conditions are required to reconfirm these conditions in order to continue to receive health supplements.

Requiring Clients to Submit New Sets of Documents for Each Benefit

The ministry has been developing best practices and initiating information-sharing projects to minimize the need for clients to submit separate sets of documents when applying for each benefit. It has also introduced the Client Transaction System (CTS) that allows ministry staff to scan and electronically store and retrieve documentation provided by clients and return the originals to clients. This process has been in place since March 2008.

These actions have reduced the requirement for duplicate documentation, but the practices have not yet been reflected in a clear policy directive that requires staff to review documents on file, both electronic and paper, before requiring clients to submit new documents, as well as returning original versions to clients.

I have recommended the ministry have such a policy in place by September 1, 2009.

General Documentation Requirements and Providing Assistance to Clients

We looked at concerns that applicants for income assistance were sometimes being asked to obtain documents that are difficult or impossible to obtain. In particular, this is a concern when an applicant is newly resident in British Columbia such as refugee claimants and convention refugees. We also examined whether the ministry was demonstrating reasonable accommodation for applicants who were having difficulty complying with its requirements and in particular whether it provided a simple, straightforward written list of the specific documents required and the applicable timelines at the beginning of the application process.

The ministry has, since October 2008, provided applicants with a documentation checklist at the time of first contact with the ministry that also includes deadlines. It will be reconfirming the importance of complying with this practice to all staff within the next two months.

The ministry also advised us that it does expect that its staff to assist applicants who need help to obtain the required documentation. There is however, no clarity as to when that is, nor is this expectation captured in a policy that is publicly available.

Consequently, I have recommended that the ministry develop such a policy by October 1, 2009. To ensure consistent application of the policy, I have recommended that the ministry provide training to staff on when and how they should assist applicants to obtain documents required by the ministry.

Documents and Forms that Clients Must Submit in Person

As with many other large organizations, the ministry sometimes wants a person to appear with the documents he or she is completing and submitting, particularly if there is a requirement to witness signatures. While perhaps at worst an annoyance in urban areas with reliable public transit, this requirement can be a significant burden or even a hazard in northern or remote areas, or where public transportation is limited.

In many communities where there is no ministry office with staff to receive and witness documents, the ministry has arranged with Service BC or a trusted third party to receive and witness documents. Currently the ministry requires 12 of its 30 forms to be submitted in person, including applications for assistance, release of personal information forms and promise to pay agreements.

We wondered whether it was necessary or reasonable for the ministry to require so many forms to be submitted in person, especially since other documents of significance, such as passports or Medical Services Plan cards can be obtained by applications submitted by mail. This is particularly relevant to the communities where there is neither a Service BC office, nor a trusted third party.

We also asked whether the ministry would accept documents witnessed by a notary and whether it had a policy regarding the witnessing of documents. The answer was no, and it did not.

I assume the ministry's purpose for requiring applicants and clients to sign documents in person is to guard against fraud and forgery, which is a valid reason. Notarized documents ranging from affidavits to birth certificates are however, accepted as valid and legal by various government departments . It did not seem reasonable that the ministry would not accept them for its purposes.

I have therefore recommended that the ministry review the number of documents that it requires applicants and clients to sign in person, with the goal of reducing them. I have further recommended that by March 31, 2010 it develop a policy of accepting documents notarized in B.C. or other equally effective and reliable mechanisms, and that the ministry expand its current arrangements with trusted third parties or develop other mechanisms for communities where there is no ministry or Service BC office.

I believe the implementation of these recommendations will be of significant assistance to British Columbians in rural and remote areas.

Implementation of Previous Commitments

In 2006, the former Ombudsman considered a number of issues he had investigated resolved, based on commitments made by the ministry. A number of those commitments resulted in positive changes. However, some remained unfulfilled and as a consequence we reopened our investigation into the following matters: the implementation of appeal decisions, the provision of reasons for the ministry's decisions, the accessibility of ministry procedures, and the ministry's process for monitoring its compliance with legislation and regulations.

Implementation of Appeal Decisions

When the ministry denies, reduces or discontinues a benefit, a person can dispute that decision by seeking a reconsideration by the ministry, and if still unsuccessful, by taking an appeal to the Employment and Income Assistance Appeal Tribunal.

The ministry's interpretation of the effect of the tribunal overturning or rescinding an earlier decision was that the earlier decision was a nullity and the ministry had to make a new decision. Effectively this meant that when the ministry made a new decision after an appeal to the tribunal was successful, the benefit was paid commencing on one of two dates: immediately after the new decision was made or the first day of the month after the successful appeal. For example, if someone had been denied PPMB status; requested reconsideration and not been successful; appealed to the Tribunal and been successful; had the ministry make a new decision on February 14; then their PPMB benefits would commence on March 1.

In one case we reviewed for designation as PWD, the date of the ministry's reconsideration decision denying the designation was March 15. After a successful appeal to the tribunal, which ruled in his favour on May 10, the benefits commenced on June 1, two and a half months after the ministry's erroneous reconsideration decision.

Until December 2008, four types of decisions were implemented on the first day of the month after the decision: PPMB status, provincial Senior's Supplement, general health supplements, and PWD status.

In 2005, the Ombudsman identified the delay in implementing these decisions as unfair. The ministry, in discussion, indicated it recognized the unfairness and was working toward a regulatory amendment, hopefully to be implemented by March or April 2006, to rectify the situation. In January 2006, it explained that it was not possible to enact regulatory changes with retroactive effect. In our March 2006 report, the former Ombudsman explained that the ministry had undertaken a broad review of the current policy and regulatory requirements about when it could implement a new decision and that the ministry has agreed to consider changing the regulation to remedy the matter.

One year later as there had been no regulatory amendment we inquired as to the status of the matter. At that time ministry staff indicated they were seeking Treasury Board approval of the ministry's budget submission on this issue. We asked for written confirmation.

In June 2007, the ministry responded indicating it was still supportive of regulatory change but cabinet approval was required. We asked for a copy of the budget submission. The ministry responded on June 18, 2007 explaining that as the cost estimates for implementing the change had declined significantly due to "dramatically reduced adjudication times" a budget submission was no longer required.

In August 2007, the ministry advised us a regulatory amendment was scheduled to be introduced in the fall of 2007. In January 2008, the ministry wrote to tell us it was targeting early February 2008. In April 2008, we were advised the target date had moved to July 2008. Subsequently this became November 1, 2008. The regulatory amendment finally came into effect December 2, 2008.

This is a highly unusual situation. The ministry acknowledged in November 2005 and January 2006 that certain provisions of the *Employment and Assistance Regulation* and the *Employment and Assistance for Persons with Disabilities Regulation* resulted in unfairness. That unfairness was, in essence, a result of erroneous decisions at the reconsideration stage that were subsequently rescinded by the tribunal.

During the nearly three years between the time the unfair effect was acknowledged and the change implemented, more than 400 British Columbians whose PPMB and PWD applications were rejected at reconsideration and then upheld on appeal lost quantifiable and unquantifiable benefits that resulted from their new status. A number of other people who applied for the Seniors' Supplement or the general health benefit may also have been adversely affected.

While it is reasonable for the ministry to require a certain period of time, even after acknowledging the unfair effects of a regulation, to ensure the necessary policy and legal procedures are completed, it seems that the original time estimate given in November 2005 of five to six months, to April 2006, would be sufficient if there existed a focus on getting this unfairness rectified.

Consequently I have found that the ministry unreasonably delayed taking steps to initiate a regulatory amendment to remedy the acknowledged unfairness that resulted from delays in implementing appealed decisions. I therefore recommended that the ministry consider mechanisms that would allow it to compensate affected people for their loss of quantifiable benefits between April 30, 2006 and December 2, 2008.

I believe this approach is consistent with the ministry's core values of ensuring equality and fairness for clients.

This is the only recommendation the ministry has not accepted.

Reasons For Ministry Decisions

Providing reasons for a decision is one of the fundamental principles of administrative fairness. Reasons allow people affected by a decision to understand how and why it was made. Knowing the reasons for a decision also help people decide if there may be grounds to dispute it and whether they wish to do so. Reasons reduce the appearance or arbitrariness and promote public confidence in the fairness of the process.

The ministry communicates some decisions orally and some in writing. Decisions about eligibility for income assistance, hardship assistance and supplements are communicated orally. All reconsiderations are communicated in writing. The ministry requires its staff to provide substantive reasons for their decisions, which are defined as a complete response that answers what the criteria to be met were and, in the case of a denial, which were not met.

As the ministry did not require all decisions to be put in writing we inquired how the ministry ensured that they all included substantive reasons. The ministry explained that its procedure requires those reasons to be recorded in its computer system. In addition, if a decision is reconsidered and appealed, the original oral decision is thoroughly reviewed.

We continued to hear examples of situations in which individuals did not believe the oral decision provided included substantive reasons and where they found it difficult to decide whether they wished to seek a reconsideration.

Both of these issues would be addressed by reasons being provided in writing, particularly given the significant procedural rights that accrue when a decision is denying a person benefits that pertain to a vital interest.

Consequently I have recommended that the ministry ensure staff offer clients written reasons for all reviewable decisions, including eligibility for income assistance, by October 1, 2009.

Monitoring

In the course of our investigation we notified the ministry that we were going to look at how it monitored the effectiveness of its programs and the degree to which its staff are in compliance with the ministry's policies.

The ministry provided us with information on how, in 2008, it conducted a file review of a random sample of 260 files to assess the Reconsideration and Appeal program's compliance with policy, regulatory timelines and the principles of fairness. We were encouraged by the adoption of this reliable, evidence-based approach because we had noted less rigourous approaches being adopted in other areas.

In 2006, the ministry conducted what it described as a compliance audit of its reconsideration and appeal processes. Its 95.6 per cent compliance rate was based on a review that asked selected staff (usually managers) questions such as whether their region consistently ensured that clients were provided with reconsideration and appeal brochures at the time of application. If staff responded yes, then they were considered 100 per cent in compliance. We believed that this review process was not sufficiently rigourous or reliable to permit such conclusions to be drawn.

Again in 2006, the ministry had told us that in 2005 the actual time between an applicant being found to have an emergency need and that person being given an eligibility interview was less than 24 hours. The process followed to determine this was to have managers of field service offices complete a questionnaire for each centre they managed. The results of the questionnaires were compiled and reported to the senior management of the ministry. The questionnaire included questions that required estimates of average times to deliver certain services, but managers were not expected to conduct a review of files prior to providing their estimates.

In 2006 the ministry agreed to conduct an audit or other form of review of how well it was complying with its new policy on the conduct of "residency verification." When we inquired about the audit or compliance review in June 2007, we were provided with a comparative compilation of monthly reports based on codes entered by staff to show the type of visits conducted. No audit or similar review was conducted to substantiate the ministry's conclusion that it could be confident that the new policy was being complied with.

Given the lack of reliability and rigour of the methods selected in these three cases to substantiate the ministry's conclusions, I have recommended that the ministry adopt file review and/or audits as its preferred mechanism for evaluating compliance with legislation and policy; that the ministry should make the results of such file reviews or audits public; and that it ensure a statement of the methodology used is included.

Conclusion

This report concludes a lengthy and detailed examination of a complex and important government program. It has demonstrated areas where fair and reasonable procedures will improve the delivery of the program and the lives of individual British Columbians.

While issues such as where forms have to be signed and what documents have to be provided and when can seem relatively minor to well-educated people with adequate resources and a good understanding of bureaucratic procedures, the importance of simple, accessible processes can make the difference between security and chaos to many of our fellow British Columbians.

I believe this report, with its focus on good administration, service delivery and accountability, approached through the Ombudsman's lens of fairness and reasonableness will assist the ministry and its staff who are open to change, as well as the clientele it serves — who may from time to time be us, or our family members, friends and colleagues.

Background

The Ministry of Housing and Social Development, formerly the Ministry of Employment and Income Assistance, describes its role as providing assistance to British Columbians most in need, and helping those who are able to work achieve sustainable employment.[1]

British Columbia has a long history of providing financial assistance and social benefits to members of society who face challenges in becoming self-sufficient. The provision of income assistance and disability assistance in British Columbia was previously governed by the *BC Benefits Act* and the *Disability Benefits Program Act* and corresponding regulations, which were repealed and replaced in May 2002. Since that time, the *Employment and Assistance Act*, the *Employment and Assistance Regulation*, the *Employment and Assistance for Persons with Disabilities Act*, and the *Employment and Assistance for Persons with Disabilities Regulation* have provided the legislative framework for income assistance and disability assistance in this province.

The Ministry's Services, Standards and Goals

The ministry provides a variety of programs and services to British Columbians in need of assistance. The ministry divides its clients into the following four groups:

- **Persons Expected to Work:** These are people in need of short-term income assistance and supports to gain employment. These include clients who are temporarily excused from, or who have limited, employment obligations due to a medical condition or family situation, such as a single parent with a child under three years of age.
- **Persons with Persistent Multiple Barriers (PPMB):** These are British Columbians who experience significant and multiple barriers to employment and who are not expected to attain complete financial independence.
- **Persons with Disabilities:** These are people who have severe physical or mental impairments and require assistance as a result of significant restrictions in their ability to perform daily living activities.
- **Child in the Home of a Relative:** These are minors whose parents have placed them in the care of relatives. The ministry provides financial support to the relative caring for the child.[2]

The services provided to these clients include:

- **Income Assistance:** Income assistance is available to support eligible clients, including those participating in employment programs. Assistance includes allowances for shelter and support. Shelter allowances assist clients in meeting their housing costs. Support allowances are provided so that clients can purchase food and other basic necessities.

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[1] Ministry of Employment and Income Assistance, *2007/08–2009/10 Service Plan*, 1.

[2] Responsibility for the Child in the Home of a Relative (CIHR) program was transferred to the Ministry of Children and Family Development on August 22, 2008. However, the Ministry of Housing and Social Development continues to deliver the CIHR program.

A single person on income assistance receives $235 per month in support and up to $375 for shelter, for a maximum of $610 per month. This amounts to approximately $20 per day.

A single person receiving benefits as a Person with Persistent Multiple Barriers to Employment receives $282.92 per month in support and up to $375 for shelter, for a maximum of $657.92. This amounts to approximately $22 per day.

A single person receiving disability assistance receives $531.42 per month in support and up to $375 in shelter per month, for a maximum of $906.42. This amounts to approximately $30 per day.

- **Disability Assistance:** Disability assistance includes a shelter and support allowance and is available to support eligible persons with disabilities who are not expected to attain complete financial independence, including clients with disabilities who are seeking work.
- **Supplementary Assistance:** The ministry provides a range of supplements to eligible clients, including for medical supplies and equipment, dental and optical services, medical transportation, subsidized bus passes, alcohol and drug treatment programs, employment-related expenses and crisis supplements for emergency needs.
- **Employment Programming:** The ministry provides employment programs and services to assist clients with finding and sustaining employment, and achieving independence. Programs and services are developed and provided to clients based on their needs and degree of readiness to work. The ministry also provides life-skills development services and access to training and volunteer opportunities for those who are less ready to participate in the workforce.

The ministry's stated values include respect and empathy, equity and fairness, accountability, and transparency and open communications.[3]

The ministry's stated goals include to:

- deliver responsive, innovative and effective services to clients in need;
- provide low-income persons with disabilities with the best system of support in Canada;
- support integrated service delivery through cross-ministry services that provide disadvantaged British Columbians with supports that are responsive to their unique needs; and
- provide employment programming that is flexible in meeting individual client needs to achieve sustainable employment.[4]

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[3] Ministry of Employment and Income Assistance, *Aligning Our Ministry's Values With Our Service Code*, 5 May 2006, 9.

[4] Ministry of Employment and Income Assistance, *2007/2008 Annual Service Plan Report.*

Background

The ministry's "Service Code" includes the following commitments to those who access its services:

- courteous, professional and consistent service, in a manner that emphasizes listening to understand;
- respect for privacy and confidentiality;
- fair and thorough assessments of situation and needs;
- assistance in identifying realistic approaches for meeting needs;
- information and clear explanations of decisions as soon as possible; and
- help in understanding the ministry's legislation, and internal reconsideration and appeal processes.[5]

In the course of this investigation, we assessed whether particular ministry policies and programs were consistent with these stated goals and values.

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[5] Ministry of Employment and Income Assistance, *Aligning Our Ministry's Values With Our Service Code*, 5 May 2006, 11 <http://www.eia.gov.bc.ca/ministry/report.pdf>.

Investigative Process

Special Report No. 28, *Ombudsman Investigation of the Public Interest Advocacy Centre's Complaints about the Ministry of Employment and Income Assistance*, released in March 2006, reported that our office had completed its investigation of:

- reconsiderations; appeals, and administrative reviews;
- the requirement for three-week job searches and emergency needs assessments; and
- home visits and residency verifications.

The Ombudsman reported that the office would continue investigating two remaining areas, which were certain aspects of the PPMB program and ministry documentation requirements. At that time, we also said we would continue to monitor the ministry's practices to ensure that the commitments it had made were met. Our investigation of the PPMB program and ministry documentation requirements continued through meetings and the exchange of correspondence.

Document Review

Our investigation included an examination of the relevant provisions of the *Employment and Assistance Act* and Regulation and the *Employment and Assistance for Persons with Disabilities Act* and Regulation. We reviewed the ministry's annual service plans from 2001 to 2008, its policies and procedures, and the publicly available information on the ministry's website. In addition, we requested and obtained a significant amount of information and documents from various ministry branches and staff. These were primarily obtained from the assistant deputy minister of the Policy and Research Division, the executive director of the Social Policy Branch, and the senior director of the Research, Evaluation and Statistics Branch. We also requested and reviewed information and documents provided to our office by the acting executive director of Internal Audit and Advisory Services in the Ministry of Finance.

Interviews and Meetings

In the course of the investigation, Ombudsman and staff met with the Minister of Housing and Social Development, as well as senior ministry officials, including the assistant deputy minister of the Policy and Research Division and the executive director of the Social Policy Branch. The majority of our meetings with ministry staff occurred in June 2007 and October 2008. Ombudsman staff met with a number of ministry staff and were provided with an overview of the income assistance and PPMB assessment processes. The Ombudsman and staff also met with and obtained input from advocacy organizations and academics.

File Reviews

Ombudsman staff accessed the ministry's Management Information System (MIS) and conducted random reviews of its client files. Ombudsman staff randomly selected and reviewed 250 files the ministry opened in April and May 2006, 250 files opened in April and May 2007, and 250 files opened in April and May 2008.[6] These files were selected from the ministry's five regions: Vancouver Coastal, Vancouver Island, Fraser, Northern and Interior. Ombudsman staff also randomly selected and reviewed 25 PPMB files.

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[6] See Appendix G, *Snapshot of 2006 Ministry Files*, Appendix H, *Snapshot of 2007 Ministry Files* and Appendix I, *Snapshot of 2008 Ministry Files*.

Applying for Income Assistance

Income assistance is an important part of the social safety net in British Columbia. If you find yourself in need of help and have exhausted all your resources, do you know where to go? Many people we've spoken to said they thought all they had to do to apply for income assistance was go to a ministry office and fill out an application form. But this is not how our system works. In British Columbia, applying for income assistance is a multi-step, multi-phase process that can take more than a month to complete. The rest of this section discusses our investigation into that process.

When the Employment and Assistance program was created in 2002, the ministry (then called the Ministry of Employment and Income Assistance) introduced a number of significant changes to the eligibility criteria and application process for income assistance. The following section of this report outlines the income application process that was in place when we initiated this investigation, as well as recent changes to that process. We considered whether the process is transparent and accessible and meets the needs of the people it is designed to serve.

Since 2002, the number of people on income assistance has dramatically decreased. The ministry has said this reduction is the result of people leaving assistance for employment. Our investigation considered whether the changes to the income assistance application process and eligibility criteria have also contributed to the reduction.

The Application Process

The income assistance application process is currently divided into two stages.[7] During the first stage, the ministry assesses whether an applicant is required to complete a three-week work search before proceeding further with an application, or is exempt from this requirement. During the second stage, which is the eligibility interview, the ministry determines whether an applicant is eligible to receive income assistance. At no time does the ministry provide applicants with a simple written guide that explains what the application process involves and the consequences of non-compliance.

For those required to complete a three-week work search, it takes approximately one month to complete the application process. If the applicant is exempt, the process can be completed more quickly, in one day to one week.

There are many steps involved in applying for income assistance, and the requirements vary depending on individual circumstances. In order to clarify the process, we have provided the following description of what should happen when a single person applies for income assistance. Andy is the name we've given to our fictional applicant.

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[7] Prior to changes in October 2007, the income assistance application process had three stages. See Appendix B for a flow chart of the ministry's application process prior to October 2007. See Appendix C for a flow chart of the ministry's application process after October 2007. See Appendix D for a flow chart of the ministry's current application process.

Stage One: The Pre-application Process

Andy can apply for assistance by telephone or in person at a ministry office. In either case, an employment and assistance worker (EAW) would ask him for basic information such as his name, date of birth and address. If Andy applied in person he would need to complete the ministry's Application Part 1 form with the EAW.[8] Andy would also have the option of consenting to have his digital photograph and electronic signature taken. If Andy was without identification, this could be used temporarily as proof of his identity until he was able to obtain official identification. If Andy applied over the telephone, the EAW would review the content of the form with Andy and request his verbal consent to collect, retain and verify the information.[9] With Andy's verbal consent, the EAW could conduct third-party checks and review Andy's credit report. The EAW would also review any other reports on Andy available through the BC Assessment Agency, the Personal Property Registry, the Insurance Corporation of British Columbia, or the Canada Revenue Agency.[10] Andy would be told that within five business days he was required to go to a ministry office or trusted third party office to sign the application form. The EAW would tell Andy that if he did not sign the form within five business days, his application would normally be considered abandoned.

The EAW would then open a file for Andy and assign him a pre-application number (PA number). The EAW would ask Andy to describe his own situation.[11] If applicable, the EAW would discuss with Andy the other options or alternate resources that might be available to him. For example, if Andy had been on employment insurance in the last three years, the EAW would tell him that he may be eligible for further funding and assistance from Human Resources and Social Development Canada and provide him with contact information. The EAW would then confirm whether Andy intended to proceed with his application.

If Andy said yes, the EAW would explain the application process, including the requirement that he complete a three-week work search before having his eligibility assessed at an eligibility interview. Andy would have to complete the work search unless he met one of the criteria that exempts him from the requirement, such as having an immediate need. During the initial interview, Andy would be provided with a documentation checklist that identified the documents Andy would be required to provide and the dates on which they were required.

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[8] See Appendix E.

[9] On December 1, 2008 the ministry introduced changes to the income assistance application process, including that the ministry is now able to obtain verbal consent from the client for a period of five days to collect, retain and verify information so that the application process can begin between the time the client contacts the ministry and the time the client can sign an application form. According to the ministry, this service change allows clients seeking service in remote areas or communities without ministry offices to begin the application process earlier and also to acquire any emergency items like food, shelter or medication by phone.

[10] The Personal Property Registry is a notice filing system which registers all of the encumbrances (e.g. mortgages, liens, debentures) created against personal property in British Columbia, whether the property belongs to a corporation or an individual. These security interests are to be distinguished from mortgages on real property (e.g. land), which are registered in a Land Titles Office.

Prior to December 1, 2008 third-party checks were conducted later in the process, at the eligibility interview. Conducting third-party checks earlier on in the process may provide clients with more time to prepare documents or additional information for the eligibility interview, which may result in more timely decisions.

[11] On December 1, 2008 the ministry introduced changes to the income assistance application process. Now clients should only be required to describe their circumstances once. The ministry is now able to retain this information on its system for one year. Prior to December 1, 2008 the information was retained for only 60 to 90 days.

Change in Emergency/Immediate Needs Assessment Process

Prior to October 2007, ministry staff were not expected to directly ask applicants whether they had an immediate need, but instead relied on applicants to bring up this information themselves. If an applicant did indicate an urgent need, ministry staff would conduct an emergency needs assessment (ENA). However, on June 4, 2007, the ministry established a provincial working group on simplification. The first task of this group was to review the income assistance application processes with a view to simplifying it. In October 2007, the ministry directed the following policy changes:

- The term "emergency need" was replaced with "immediate need."
- Staff were to determine for all applicants whether the three-week work search would be required, or if the applicant would be exempted from this requirement at the beginning of the application process.
- Staff were to remain aware that applicants' circumstances can change during the three-week work search and that a reassessment may be needed.
- Applicants with immediate needs were now to be provided with the first possible eligibility appointment. If this was not within one business day, or soon enough to meet an applicant's immediate need, staff were to use other resources while determining eligibility (e.g., meal tickets, bus tickets for local travel, shelter referral).
- The new service standard for an eligibility interview was that it be conducted within one business day for those with immediate needs and for those fleeing abuse.

Exemptions to the three-week work search requirement

Applicants may be exempt from the requirement to complete a three-week work search if they meet one of the following criteria:

- *are prohibited by law from working in Canada;*
- *have reached 65 years of age;*
- *are applying for assistance as a child in the home of a relative;*
- *have a physical or mental condition that precludes them from completing a search for employment;*
- *are fleeing an abusive spouse or relative;*
- *are a Person with Disabilities; or*
- *have an immediate need for food, shelter or urgent medical attention.*

The most significant change is that as of October 2007, ministry staff are supposed to automatically assess whether each applicant has an immediate need and should therefore be exempted from the three-week work search requirement, rather than relying on applicants to state that their needs are urgent. Ministry staff are now required to conduct the assessment for immediate needs at the beginning of the interview, instead of later in the process, as was the previous practice.

In Andy's case, the EAW would assess whether he was required to conduct a three-week work search before proceeding to Stage Two of the application process by asking him the following types of questions:

- Do you have any food? If so, how much food do you have?
- Do you have a place to stay?
- Have you received a disconnection notice for any essential utility?

- Do you have any medical conditions?
- Do you require any medicine or medical treatment that you need a prescription for? If so, how much medicine do you have left?
- Are you fleeing an abusive spouse or relative?
- Do you have a physical or mental condition that prevents you from looking for work?
- Has the ministry previously determined that you are a person with disabilities?
- Can you legally work in Canada?
- Are you 65 years or older?
- Are you applying for child in the home of a relative assistance?

If after hearing the answers to these questions, the EAW decided that Andy had an immediate need or that he was fleeing an abusive relationship, the EAW would arrange his eligibility interview for within one business day. If this were not possible, or if the appointment was after a weekend, the EAW would assist Andy by offering him things like meal tickets, bus tickets or a referral to a shelter. The EAW might ask Andy to submit an eviction notice or documents that confirmed his medical need or immediate problem. If he was unable to provide these, the process could be delayed.

If Andy met other exemption criteria, for example, if the EAW determined that he had a physical or mental condition that prevented him from looking for work, he would be provided with an eligibility appointment within five business days.

If Andy didn't meet any of the exemption criteria, the EAW would explain that he would have to complete a three-week work search before his eligibility interview could happen. The EAW would explain that the three-week work search must start the next day and that Andy would have to demonstrate regular and ongoing attempts to find a job. The EAW would outline what Andy needed to do in order to satisfy the work-search requirement.[12]

The EAW would refer Andy to the ministry's online income assistance estimator tool.[13] If Andy did not have access to the online estimator, the EAW would use the income assistance estimator tool to assess the possible outcome of Andy's application for income assistance. If the EAW thinks Andy will be eligible, he or she would give him an estimate of how much money he could receive. If the EAW thinks Andy is unlikely to be eligible, the EAW would say so, but also inform him of his right to continue with the process. The EAW would then ask Andy whether he wanted to continue.

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[12] Ministry policy requires most applicants to demonstrate that they have conducted five work-search activities per day.

[13] The income assistance estimator is an online tool provided by the ministry to approximate the amount of assistance applicants can expect to receive based on a set of questions. The estimator asks applicants to provide figures for income, assets and monthly expenses in addition to personal information including age, citizenship status, age of spouse and number of dependants. The estimator also asks whether applicants have been financially independent for a period of 24 months before applying and whether they are seeking employment. Exemptions to these requirements are briefly listed in pop-up windows that appear when applicants click on question marks next to the questions. At the conclusion of the questionnaire, an estimated amount of assistance is calculated.

If Andy answered yes, the EAW would next explain the other eligibility criteria that he would have to meet. Andy would be told that, if eligible, he will be required to pursue all other sources of income (for example, family maintenance support payments, Canada Pension Plan benefits, or employment insurance benefits).

The EAW would explain that each adult member of Andy's family will have to complete a web-based orientation session within the 60 days prior to Andy's eligibility interview.[14] Andy would be told to provide the ministry with a confirmation number and date on which each of his adult family members completed the orientation.

If Andy was required to conduct a three-week work search, he would be given a 14-day "touch back" date. The EAW would explain that if Andy was unable to find work and still in need of assistance, then he must call back on this date so the ministry could review the progress on his work search and schedule an eligibility interview. If Andy did not call back on the 14th day, his application would normally be considered abandoned. If Andy did call back on the 14th day, an EAW would then review his efforts to look for work and decide whether they were satisfactory. If so, Andy would be given a date for an eligibility interview. Typically, the interview takes place one week later. If an EAW judged his efforts unsatisfactory, Andy would be told what additional steps to complete in the remaining week in order to satisfy the requirement. An EAW could also direct him to start his work search over. In this case, the EAW would inform Andy of his right to request reconsideration of this decision.

If the EAW did book an eligibility interview for Andy, he or she would also tell him what documents to bring to that appointment. This is important because if Andy did not bring the required documents, it could delay the application process or result in him being denied assistance.

Stage Two: The Eligibility Interview

At the eligibility interview, Andy would have to demonstrate that he met all of the ministry's eligibility criteria. The EAW would first review the results of his three-week work search, unless he had been exempted from the requirement. If Andy's work search was not considered satisfactory, he would be told what additional steps to take, and advised of his right to request reconsideration of this decision. The EAW would review with Andy the ministry's other eligibility criteria, including:

- At least one adult in the family has been financially independent for at least two consecutive years, unless exempt from this requirement.[15]
- All members of the family have identification and valid social insurance numbers.
- Each adult in the applicant's family has completed the ministry's orientation program within the 60-day period immediately prior to the eligibility interview.

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[14] Each applicant and his or her adult dependents are required to complete the orientation. The requirement to complete the orientation may be postponed or waived in a number of circumstances including, for example, when a person has a physical or mental condition that precludes completion of the orientation program.

[15] See page 38 for a list of exemptions to the two-year independence requirement.

- All members of the family meet citizenship requirements.[16]
- The family has pursued all other available income sources.[17]
- The family's net income and assets do not exceed the limits set out in the Regulations.[18]

The EAW would review Andy's documents and determine whether any others were required. If so, the EAW would direct Andy to submit them by a specific date and ask him to contact the ministry if he was unable to do so. The EAW would inform Andy that if the ministry had not heard from him by that date, it would assume he is no longer in need of assistance and close his file.

Once Andy had submitted all the required documents, the EAW would decide whether he was eligible for assistance and inform him of the decision. If the EAW decided Andy was not eligible, the EAW would inform him of this verbally, and explain why his application was denied. The EAW would also inform Andy of his right to request reconsideration of the decision. If the EAW decided that Andy was eligible, he would be told the amount of assistance he was entitled to, his reporting obligations, and the date that his first cheque would be issued. He would also be told when his medical services coverage would begin. In addition, the EAW would tell Andy that in order to maintain his eligibility for assistance, he must be actively engaged in activities that will lead to employment. To that end, the EAW would develop an employment plan for Andy, which he would have to comply with in order to maintain his eligibility for assistance.[19]Andy would have to submit a record of what he had done to look for work to the ministry every month. EAWs would review and monitor what Andy submitted to ensure he was complying with his plan and making progress.

Analysis

In order to be fair, government programs should be accessible, understandable and designed to meet the needs of the people they serve. The income assistance application process should be designed to assist people in financial need. In addition, it should be accessible to people with disabilities, low literacy rates or other barriers and challenges.

Despite the changes made since 2007, we believe that the ministry's application process is still unnecessarily complicated. Prior to the introduction of the three-week work search in 2002, applicants were able to simply fill out an application form and then go through an interview. Now, as we saw in Andy's example, he may have to complete a three-week work search and a web orientation, call the ministry before a specific date and provide the ministry with extensive documentation before his eligibility is even assessed. While we understand these steps were added to ensure that people are diverted to employment and to verify that they are in need of assistance, we believe the complexity of the current process and its many steps have the potential to discourage applicants who may be genuinely in need.

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[16] For a family to be eligible for income assistance or disability assistance, the family must meet one of the following criteria: (1) all applicants in the family are one of the following: a Canadian citizen, a permanent resident or a protected person (convention refugee or person in need of protection) or; (2) one applicant is a Canadian citizen, a permanent resident, or a protected person, while other applicants in the family are one of the following: in Canada on a temporary resident permit, a refugee claimant, under a removal order that cannot be executed, or a dependent child.

[17] Applicants and recipients are required to seek, accept and use all other income to support themselves before they are eligible for assistance. Possible other sources of income include, but are not limited to, payments from the Canada Pension Plan, child tax benefit, employment insurance, workers' compensation and the BC Family Bonus.

[18] To be eligible for income assistance or disability assistance, a family's net income must not equal or exceed the amount of income assistance or disability assistance that would be payable to the family. Assets do not affect eligibility for income assistance or disability assistance as long as the value of the assets is within the ministry's exemption levels. If the value of assets exceeds the exemption levels, applicants are not eligible for assistance, as they are required to use their assets for support.

[19] See Appendix F.

Specifically, during the initial interview an EAW can use the income assistance estimator to calculate the amount of assistance a person may receive and provide an opinion that the applicant may not be eligible for assistance. We are concerned that applicants who hear this may believe that the ministry has already decided they don't qualify for assistance, and abandon their applications. This practice undermines the right of applicants to complete an application and receive an official decision on eligibility that they can then request be reconsidered or appeal if they disagree.

In addition, staff provide applicants with information several times during the first phase of the application process, and at each of these may ask whether the person wishes to proceed. We are concerned that this can discourage applicants from proceeding and having their eligibility for assistance assessed. Our view is that the ministry should increase the accessibility of the application process by eliminating unnecessary barriers.

During the income assistance application process clients are required to contact and/or provide documents to the ministry on specific days. If clients do not contact the ministry in the required timeframes, the ministry would normally consider their applications to be abandoned and close their files. In these circumstances, clients may have to start the income assistance application process over again.

Ombudsman Findings

1. The ministry's income assistance application process is unduly complex and not designed to meet the needs of the people who are applying for assistance.
2. The ministry does not offer applicants a clear written explanation of the income assistance application process at the time of their initial interview.
3. The ministry's income assistance application process can discourage people who are in need from obtaining the assistance available to them.

Ombudsman Recommendations

1. The ministry continue to simplify the process of applying for income assistance with a view to minimizing challenges for applicants. The ministry do this on an ongoing basis and annually report the results to the public.
2. The ministry enhance the material already provided to income assistance applicants at the time of their initial application. The ministry include a clear written explanation of the steps involved in applying for income assistance in the new material. The ministry complete these steps by October 1, 2009.
3. The ministry increase the accessibility of its application process by:
    - directing its staff not to provide non-reviewable preliminary opinions of clients' eligibility;
    - minimizing the number of times staff ask clients if they wish to proceed with the application process. The ministry precede any question of this nature with confirmation that the individual has a right to continue the application process;
    - establishing in policy that if clients do not contact the ministry in the requested timeframe that these files will become "No Case Mades" only after 90 days and that these files can be reactivated at any point as long as the clients meet the ministry's requirements.

    The ministry complete these steps by July 1, 2009.

In response to Recommendation Three, the ministry provided us with additional clarification on the steps it had taken in December 2008 to improve the accessibility of its application process.

The ministry explained that it has taken steps to direct staff not to give non-reviewable opinions of clients' eligibility. The ministry provided our office with copies of training material it gave its staff in late November and early December 2008. One of these documents contains a series of questions and answers about the ministry's simplification initiative. An attachment to this document says:

> It is very important that, at Stage One of the application process, the Ministry does not discourage applicants about their ability to receive assistance. Any information received prior to the eligibility interview should not predetermine the eligibility of the applicant.

> If the Ministry is perceived to have 'denied' an applicant prior to their eligibility interview then the Ministry has not provided an administratively fair process as the applicant has not being [sic] given the right to respond to the case against them.

We believe that this is a step in the right direction and that the ministry should give this information more prominence, by, for example, including it in ministry policy or in a directive to staff.

In addition, the ministry indicated that it currently directs staff not to ask applicants whether they wish to proceed with their applications at each stage of the income assistance application process. The ministry gave us copies of revised income assistance application scripts dated January 13, 2009. The ministry does appear to have made improvements in this area. However, in the revised scripts there are still a number of instances in which the ministry gives information to clients and then asks clients if they would like to proceed. We believe that the ministry should minimize the number of times staff ask clients if they wish to proceed with the application process. In addition, we believe that in order to avoid discouraging applicants, the ministry should precede any question of this nature with confirmation that the individual has a right to continue the application process.

In January 2009, the ministry also stated that it no longer considers income assistance applications to be abandoned when applicants do not contact the ministry by a specific date. The ministry explained that recent system changes allow the ministry to retain client information for one year and therefore will not result in the ministry considering applications to abandoned. We acknowledge that the changes will result in better service to applicants. However, we note that training material the ministry distributed to staff in November and December 2008 says that if a file is abandoned by an applicant, the EAW should follow the procedure for closing the file. The training material does not indicate how long files are left open before they are closed and does not include any information about reopening files if clients contact the ministry again. As a result, we are not confident that the intent of our recommendation has been met. We think it would be reasonable for the ministry to establish in policy that if clients do not contact the ministry by the deadline specified that the file will be closed only after 90 days, and that these files can be re-activated at any point, as long as ministry requirements are met.

Three-week Work Search

In February 2005, the ministry exempted the following from the three-week work search requirement:

- people who are legally not able to work in Canada;
- those who have an immediate need for food, shelter or urgent medical attention for themselves or their families, as determined in an emergency needs assessment.

Concerns were raised with our office that other people, such as the elderly or those in poor health, might also be unable to look for work, but that these individuals were still required to do so in order to be eligible for assistance.

In response to these concerns, the ministry created four additional groups of applicants who, as of November 1, 2005, were exempted from the work-search requirement. These groups are:

- people with a physical or mental health condition that prevents them from completing a search for employment;
- people fleeing from an abusive spouse or relative;
- people over the age of 65; and
- people seeking assistance from the ministry under the Child in the Home of a Relative program.

In the course of our investigation, we heard from people who told us that they thought it was unfair they had to conduct a three-week work search after contacting the ministry because they had already been looking for work prior to contacting the ministry. We question why the ministry requires applicants to look for work for a further three weeks if they can show they've already conducted a work search that meets the ministry's standards directly before applying for assistance. For such applicants, the three-week work search requirement appears to do little other than prolong the period that they are ineligible for assistance, and very likely increase the urgency of their needs.

We also considered the concern raised with our office that some ministry offices or workers have imposed a three-week "community resources search" even after determining that an applicant was exempt from the three-week work search. We were told that the ministry directed these applicants to seek assistance from various community groups and attempt to become financially independent before they could apply for ministry benefits. We were told that this practice continues to occur in various ministry offices, despite there being no basis for requiring this type of search in the ministry's legislation or policies.

We asked the ministry to clarify its policies and practices in this area. Ministry staff gave us copies of two directives from the acting assistant deputy minister of its Policy and Research Division. The directive dated November 21, 2006 states:

> Another very important clarification concerns practice for clients who have been exempted from the three-week work search. **Clients who qualify for an exemption to the three-week work search can proceed immediately to Stage 2 of the application process for income or disability assistance, without a waiting period.**
>
> - Once it is determined that an applicant qualifies for an exemption from a three-week work search, there is no legislative or regulatory authority to require that person to complete a "community resource search" or to otherwise delay an eligibility interview.
> - Clients who qualify for an exemption to the three-week work search are to proceed immediately to Stage 2 of the application process for income or disability assistance without a waiting period and must be scheduled for the first available appointment.

The ministry confirmed that the practice for scheduling appointments is as follows:

- Applicants who are identified as having an immediate need will be scheduled for the next possible eligibility interview appointment.

- Applicants exempted from the three-week work search on grounds other than immediate need will be scheduled for the next available regular appointment, which is usually within five business days for Region 1 (Vancouver Island).

The ministry told us that in most circumstances, applicants have an eligibility appointment within five business days.

Ombudsman staff conducted a random review of 250 ministry files from 2006, 250 files from 2007 and 250 files from 2008 to observe, among other things, how many days it took for applicants exempted from the work-search requirement, for reasons other than having immediate needs, to have an eligibility interview.[20]

In 2006, the average length of time it took was 8.32 days. In 2007, the average was 4.29 days. In 2008, the average was 5.76 days. We were surprised to see that the number of days increased from 2007 to 2008.[21]

We did not see specific reference to "community resource searches" in our review of ministry files. However, in the files we reviewed from 2006, we found that 56 per cent of clients exempted from the work search waited three or more weeks for an eligibility interview. In our review of files from 2007, we found that 24 per cent of exempted clients waited two or more weeks for an eligibility interview. In our review of files from 2008, 21 per cent of exempted clients waited two or more weeks for an eligibility interview. No reasons for these delays were documented in the ministry's MIS system.

Work Searches for Single Parents with Children Under Three

Single parents with children under the age of three are not expected to look for work once the ministry has determined they are eligible for income assistance. Despite this, they are not exempt from the ministry's three-week work search requirement when applying for income assistance. The ministry has acknowledged that single parents with young children may find it difficult to find and keep work due to their need for childcare. The ministry told us that its staff consider a number of factors, including availability and accessibility of childcare, when deciding whether a job search conducted by a single parent of a young child is adequate. This flexibility may be helpful, but it is unfair and contradictory to delay the onset of benefits for single parents of young children by insisting they conduct a three-week work search, when, once deemed eligible, they will not be expected to look for work.

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[20] The files that ombudsman staff reviewed represent 4.78 per cent of the total ministry files opened in the province in April and May 2006, 3.17 per cent of the total opened in April and May 2007, and 3.04 per cent of the total opened in April and May 2008. The ministry's draft internal audit report, which is discussed in the PPMB section of this report, was based on a review of 2.4 per cent of files.

[21] According to the ministry, the number of applications increased approximately ten per cent between 2007 and 2008.

Ombudsman Findings

4. It is unreasonable for the ministry to require applicants who can show that they have already actively sought work for the three weeks prior to applying for income assistance to conduct a further three-week work search before assessing their eligibility for assistance.
5. It is unreasonable for the ministry to require single parents with children under the age of three to conduct a three-week work search before assessing their eligibility for assistance, since if the ministry determines they are eligible, they will no longer be expected to look for work.
6. The ministry does not consistently provide applicants who are exempt from the three-week work search requirement with an eligibility appointment within five business days.

Ombudsman Recommendations

4. The ministry take the necessary steps to include an exemption from the three-week work search requirement in the *Employment and Assistance Regulation* for applicants who demonstrate that a work search to the ministry's standards was conducted in the three weeks immediately prior to their application.
5. The ministry take the necessary steps to include an exemption from the three-week work search requirement in the *Employment and Assistance Regulation* for single parents with children under the age of three.
6. The ministry continuously improve compliance with its service standard that applicants who are exempt from the three-week work search requirement are provided with an eligibility appointment within five business days.

Emergency Needs Assessments (ENAs)/Immediate Needs Assessments (INAs)

In 2005, ministry officials told us that applicants with emergency needs (now called immediate needs) were getting eligibility interviews within 24 hours of when their needs were identified. However, we continued to hear concerns from applicants and advocates that some ministry staff were not always asking whether needs were urgent and instead relying on applicants to state these needs themselves. We heard complaints that even when ministry staff did identify a client's urgent need, appointments were not always scheduled soon enough to meet it. We heard examples of applicants who were referred to shelters or food banks instead of being immediately assessed for assistance, as required by policy.

The ministry told us that its service standards for the INA process are as follows:

- INAs are to be completed the same day that the need is identified.
- Applicants with an immediate need will have that need addressed the same day.[22]

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[22] If the appointment for the eligibility interview is not soon enough or eligibility cannot be determined soon enough to meet the immediate need, then staff must ensure the applicant is provided with or directed to other available resources (e.g., food/sundries vouchers, bus tickets for local travel, shelter referral, etc.) until the interview can be held and eligibility can be determined. Meeting the need in the interim does not mean the applicant no longer requires an urgent eligibility interview.

- Applicants with an immediate need will have an eligibility interview and complete the application within one business day.

Ombudsman staff reviewed 250 ministry files from 2006, 250 from 2007 and 250 from 2008. The purpose of this file review was to see how long it took the ministry to conduct an INA and, if an immediate need was identified, how long it took before the client had an eligibility interview.

In the files we reviewed from the year 2006, it took an average of 0.7 business days from the time an applicant indicated an immediate need to the time an EAW conducted an INA. It took an average of 1.8 business days from the INA to the eligibility interview. In total, it took an average of 2.5 days from the time an applicant stated an immediate need until he or she had an eligibility interview.[23] Ministry workers failed to conduct INAs on the same day that applicants stated an immediate need in 24 per cent of the files we reviewed. The compliance rate was lowest in the ministry's Vancouver Island region, where in 2006, INAs were conducted on the same day only 48 per cent of the time.[24]

If, as the ministry told us, in 2005 it was able to give applicants with immediate needs eligibility appointments within one business day, it appears that its service deteriorated in 2006. In that year, wait times were up to 1.8 days, or nearly double what the ministry said they were in 2005.

In the files we reviewed from the year 2007, it took the ministry an average of 0.6 days from the time an applicant stated an immediate need to the time a worker conducted an INA. It took 0.8 days from the INA to the eligibility interview and a total of 1.4 days from the time an applicant indicated an immediate need to the time an eligibility interview was conducted.[25]

In the files we reviewed from the year 2008, the ministry typically conducted the INAs on the day of the initial interview.[26] This was a significant improvement from 2006 and 2007 and appears to be due to the ministry's policy change in October 2007. The new policy required staff to evaluate whether each client was eligible for exemption from the three-week work search. However, it still took ministry workers an average of 1.6 days from the time of the INA to the eligibility interview. [27] While the length of time it took ministry workers to conduct INAs decreased, the length of time it took the ministry to provide an eligibility interview after the INA increased. Thus, despite the new policy, the average time that elapsed between the identification of a client's immediate need and their eligibility interview increased from 1.4 to 1.6 days between 2007 and 2008.[28]

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[23] See Appendix G.

[24] See Appendix G.

[25] See Appendix H.

[26] See Appendix I.

[27] See Appendix I.

[28] According to the ministry, the number of applications increased approximately ten per cent from 2007 to 2008 and the number of applicants determined to have immediate needs increased 33 per cent from 2007 to 2008.

In the course of our file review, we saw several examples of clients who appeared to have satisfied the ministry's immediate needs criteria, but whose needs were either not assessed, or not assessed until several days after contacting the ministry a second time. These included:

- Four applicants who had no food or money to purchase food were not assessed for immediate needs or given an expedited eligibility interview.
- An applicant who explained that he was living in a car and a tent and had no money was not assessed for immediate needs or given an expedited eligibility interview.
- Two applicants who presented eviction notices were not assessed for immediate needs or given expedited eligibility interviews.
- An applicant who explained that she was homeless and fleeing an abusive relationship was not assessed for immediate needs or given an expedited eligibility interview.
- Five applicants who expressed an immediate need were not assessed or given expedited eligibility interviews. When the applicants called back a few days later and expressed the same immediate need with no further information or documentation, a different worker assessed them for immediate needs and provided them expedited eligibility interviews.

Based on our file reviews and the above examples, we have concluded that the ministry lacks adequate processes to ensure that its staff assesses clients for urgent needs in a correct and consistent manner.

Ombudsman Findings

7. The ministry is not consistently providing eligibility interviews to applicants with immediate needs within one business day.
8. The ministry's employment and assistance workers are not consistent in their assessments of what constitutes immediate needs.

Ombudsman Recommendations

7. The ministry continuously improve compliance in providing eligibility appointments within one business day to individuals with immediate needs.
8. To ensure compliance with ministry policy on immediate needs assessments and increase consistency in how staff conduct these assessments, the ministry:
    - regularly provide training for staff;
    - regularly audit compliance; and
    - report audit outcomes publicly on an annual basis.

Two-Year Financial Independence Requirement

To be eligible for income assistance, at least one person in the applicant's family must show that he or she has been financially independent for at least two consecutive years prior to applying.[29] To demonstrate financial independence a person must:

- have worked for at least 840 hours in each of two consecutive years; or
- have earned at least $7,000 in each of two consecutive years; or
- have been employed for a portion of two consecutive years; and
- for the balance of the two years, either
  - have served a waiting period for or received employment insurance benefits; or
  - have received income from a private or public income replacement program or plan.

Section 18(3) of the *Employment and Assistance Regulation* establishes a number of exemptions to the two-year independence requirement. Most of the exemptions were introduced when the Regulation came into force on September 30, 2002. The two-year independence requirement does not apply to the following applicants who:

- are under 19;
- are pregnant;
- have a medical condition that will prevent them from working for at least the next 30 days or which has prevented them from working for a total of six months of the two years immediately proceeding the application;
- have dependent children;
- have a child in the home of a relative;
- have a foster child;
- were supported by an employed spouse for at least two years;
- were supported by an employed spouse for a portion of a two-year period and met a requirement of section 8(1) of the Act for the balance;
- were incarcerated for at least six months during the two years immediately prior to applying for assistance;
- were in the care of the Ministry of Children and Family Development, or who had a youth agreement until they turned 19;
- have separated from an abusive spouse or who changed place of residence to flee an abusive relative;
- have received a two-year diploma or certificate, a bachelor's degree or a post-graduate degree from a post-secondary institution;
- have already been determined to have persistent multiple barriers to employment;

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[29] *Employment and Assistance Act,* S.B.C. 2002, c. 40, s. 8.

- reside with and care for a spouse who has a physical or mental condition that precludes the applicant from leaving home for the purpose of employment;
- are providing care for a child under an agreement with the Ministry of Children and Family Development.

Ministry policy indicates that people with disabilities are exempt from the two-year financial independence requirement. It also indicates that the two-year period must be consecutive, but that it does not have to be the two consecutive years directly prior to applying for assistance. The ministry only requires applicants to meet the two-year independence requirement once in their lifetimes.

In some cases, the ministry allows district supervisors flexibility when making decisions about the application of this requirement. On January 18, 2006 the ministry issued the following policy on the application of discretion:

> District supervisor may use discretion to authorize the issuance of assistance in cases where, due to factors beyond an applicant's control, the applicant could not have achieved two consecutive years of financial independence prior to applying for income assistance, and the applicant would experience undue hardship if eligibility were denied.

Ministry policy provides the following as examples of factors that could be beyond an applicant's control:

- long-term incapacitating physical, social or mental health problems, such that two consecutive years of financial independence would not have been possible;
- long-term dependency upon government assistance, such that two consecutive years of financial independence would not have been possible;
- chronic medical problems or addictions, which prevent two consecutive years of financial independence;
- extended periods of caring for dependent family members, such that two consecutive years of financial independence would not have been possible;
- previously restricted to living in a community, or country, where the economic and/or social conditions prohibited or precluded the possibility of two consecutive years of financial independence.

Ministry policy also provides the following explanation of undue hardship:

> The family or applicant will be unable to secure basic food, shelter and/or required medical attention if denied income assistance.

It appears the ministry recognizes that there may be people in need who are unable to demonstrate two consecutive years of financial independence. Ministry policy recognizes that people with long-term physical, social or mental health problems or addictions may not be able to demonstrate two years of financial independence. Ministry documents from early 2003 state that, "This policy initiative has had the effect of denying eligibility to many applicants whom it was not intended to impact. Many of these applicants have no recourse of alternative resources."[30] For those who have barriers to employment and who are not capable of gaining financial independence through employment, the consequences of this requirement can be very serious. For example, for people who have not yet been assessed as having multiple barriers to employment and who have been unable to meet the two-year independence rule, this could result not only in them not receiving services under the Person with Persistent Multiple Barriers to Employment program, it could also disqualify them from receiving even basic income assistance. Being denied assistance could cause applicants severe hardships and increase their vulnerability.

It is encouraging that the ministry has allowed district supervisors the discretion to waive the two-year financial independence requirement. However, the ministry does not appear to have the legal authority to create a policy that allows supervisors to waive a regulatory requirement.

It is unfortunate that the ministry has not taken steps to address the unintended consequences of the two-year independence requirement in the appropriate manner by establishing a further exemption in the Regulation, or providing district supervisors with the legal authority to exercise discretion when applying the requirement.

We asked the ministry for information about the number of people it had determined to be ineligible for income assistance because they failed to meet the two-year independence requirement. We were told that from October 2002 to July 2008, 5,650 applicants were ineligible for income assistance because they could not demonstrate two consecutive years of financial independence.

Number of Applicants Who Did Not Meet the Two-year Independence Requirement

Time period	Number of ineligible applicants[1]
October 2002 – December 31, 2002	535
2003	1,975
2004	1,339
2005	826
2006	455
2007	322
January – July 2008	198
Total	**5,650**

[1] The ministry indicated that a number of these applicants did not meet other eligibility requirements.

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[30] Ministry of Employment and Income Assistance, *Consolidated Field Implementation Project* (Last revised on January 30, 2003), 3.

In analyzing the effectiveness and the fairness of the two-year independence requirement, it is important to consider its stated purpose, which is to "encourage people, particularly young adults, to achieve independence" and to "emphasize that income assistance is a payer of last resort."

Ministry documents and briefing notes from 2002 indicate that requiring applicants to demonstrate financial independence for two consecutive years was considered, "a significant change in the ministry's philosophy." Ministry staff outlined the issues and risks associated with the two-year independence requirement, including the following:

> Some persons rendered ineligible due to the financial independence test may not have other means of support, if their parents are unable or unwilling to assist. This would include persons whose parents are deceased.
>
> Exempting persons under the age of 19 may increase the number of underage applicants, and could result in a Charter challenge.

The ministry made the following estimates about the impacts of the two-year independence requirement:

- The greatest impact would be on 19 to 24-year-old applicants.
- There would be 396 denials per month.
- There would be savings of an average of $461 per month in benefits per denial.
- There would be an average of 6.8 months of savings per denial.[31]

While there is a long list of exemptions to the requirement, there is also the potential for the ministry to deny assistance to applicants who are genuinely in need and who, because of a medical condition or other barrier, have been unable to sustain employment. In these cases, we find that the application of the two-year rule conflicts with the ministry's stated goal of providing assistance to those in need. This conflict is of particular concern because the people who are most in need may be the very same people who are unable to demonstrate financial independence.

Ombudsman Finding

9. In some cases, decisions made to deny assistance to a person in need on the basis of her or his failure to meet the two-year independence requirement are unfair and unreasonable.

Ombudsman Recommendation

9. The ministry take the necessary steps to remedy the potential for unfairness caused by the two-year financial independence requirement by either seeking to add further exemptions or providing legal authority for supervisors to waive the requirement by March 31, 2010.

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[31] The ministry estimated that it would save $8 million in 2003/2004 and $8.3 million in 2004/2005 by introducing the financial independence requirement.

Changes in the Income Assistance Caseload

As already discussed, in 2002, the ministry made significant changes to the income assistance application process and eligibility criteria. These changes included the introduction of the three-week work search requirement, the two-year financial independence requirement and limits to the total amount of time people can receive assistance.[32] In order to consider the impact of some of these changes on its caseload, we asked the ministry to provide us with statistics about income assistance application approvals and denials. We were surprised to learn that the ministry does not track the number of income assistance applications that are approved and denied. The ministry explained:

> The ministry does not have an official "approval rate", as we do not code whether an application was approved or denied. What we can track is the number of cases that apply for assistance and the percentage that come into pay.

What we do know, however, is that the number of people who receive income assistance has been declining since 1995, and that this trend intensified after the introduction of the Employment and Assistance program in April 2002. Since April 2002, the number of employable people receiving income assistance has declined by 53,850 or 70 per cent.[33]

The following statistics are from the ministry's August 2007 *B.C. Employment and Assistance Summary Report*:[34]

Year	Expected to work	Expected to work with medical conditions	Temporarily excused	Persistent multiple barriers	Persons with disabilities	Total (annual average)
1995	174,937	n/a	17,756	n/a	22,167	214,860
1996	158,020	n/a	16,654	n/a	27,391	202,065
1997	121,822	n/a	30,204	n/a	27,814	179,840
1998	106,757	n/a	29,938	n/a	30,954	167,649
1999	98,643	n/a	25,983	n/a	33,888	158,514
2000	91,661	n/a	24,389	n/a	37,902	153,952
2001	85,864	n/a	22,991	n/a	42,996	151,851
2002	68,287	n/a	20,242	n/a	45,896	134,425
2003	36,671	n/a	19,695	8,440	48,879	113,685
2004	23,657	5,805	10,660	12,282	52,933	105,337
2005	19,345	6,874	7,190	9,780	56,616	99,805
2006	16,872	6,782	6,299	7,752	59,493	97,198
2007	18,533	6,065	5,913	7,250	63,148	100,909

As this table illustrates, the caseload decline has predominantly been in the "expected to work" category.

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[32] Under section 16 of the *Employment and Assistance Act* and Regulation, the receipt of income assistance is limited to two of five years or 24 of 60 months. After the time limit is reached, a person either becomes ineligible or reductions may be applied. The *Employment and Assistance Regulation* exempts some recipients from time limits. Time limits do not apply to persons receiving assistance under the *Employment and Assistance for Persons with Disabilities Act*.

[33] Ministry of Employment and Income Assistance, *Outcomes of Those Leaving Assistance*, February 2007, 1.

[34] Ministry of Employment and Income Assistance, *Employment and Assistance Summary Report* <www.eia.gov.bc.ca/research/07/01_oct07.pdf>. Ombudsman staff recalculated the totals excluding the numbers from the Child in the Home of a Relative program.

In the ministry's *2007/2008 Service Plan*, then-Minister Claude Richmond makes the following comments about the ministry's caseload:

> The Ministry's caseload has changed significantly in number and composition. Our success, in assisting so many employable clients move off our rolls into the workforce, means that today fully two-thirds of our clients are people with disabilities or multiple barriers to employment.

In its February 2007 report, *Outcomes of Those Leaving Assistance*, the ministry indicated that the number of employable clients had declined by 70 per cent since 2002. The report comments on the high percentage of employable clients leaving income assistance for employment. However, the report doesn't comment on whether the reduction may also be due to fewer people being approved for income assistance — a number the ministry acknowledges that it doesn't track.

In the course of our investigation we asked the ministry to provide us with information about the number of people who began the application process (and so were assigned a "PA" or pre-application number) but did not have their eligibility assessed at an eligibility interview. These applicants were therefore not assigned a "GA" number, which is provided when an applicant's eligibility is assessed.[35]

The ministry provided us with the following information:[36]

Year	**Pre-applications (PAs)**	**Eligibility interview (GAs)**	**Number of people who contacted the ministry to apply for income assistance but did not have an eligibility interview**
2004	84,701	45,415	Not Provided
2005	79,616	43,499	36,117
January-September	57,740	31,303	26,437
October-December	21,876	12,196	9,680
2006	78,880	46,596	32,284
2007	77,621	50,586	27,035

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[35] GA is short for GAIN (Guaranteed Available Income for Need). A GA number is used as the identification number for income assistance clients.

[36] In order to provide the information we requested, the ministry had to create a computer software program because the information was otherwise not readily available. The ministry told us that the MIS system allows staff to use a "No Case Made" code for situations in which an applicant chooses to terminate an application before the ministry fully assesses eligibility. However, staff do not consistently use the "No Case Made" function in the MIS. We believe that the ministry should make better and more consistent use of its own program codes to track the number of applicants who apply for assistance but don't complete the eligibility interview.

As the table shows, in 2005, approximately 45 per cent of people who began the application process did not complete an eligibility interview. In 2006, approximately 41 per cent of people who began the process did not complete an eligibility interview.[37] In 2007, approximately, 35 per cent of people who began the process did not complete an eligibility interview.

Why did these people not complete an income assistance application? In a letter dated August 28, 2007, the ministry explained that:

> Applicants may choose to discontinue pursuing an application for income assistance at any time for any number of reasons including: finding employment, moving out of province, new sources of income (e.g., eligible for federal benefits), and self-assessing their own eligibility for income assistance. Applicants who abandon their request for income assistance are not required to inform the ministry of their reasons for doing so and the ministry does not follow up with them.

At this stage, the ministry's explanation for why applicants may choose to discontinue income assistance applications is a hopeful hypothesis because the ministry does not track why applicants discontinue their applications. The ministry suggests that some people may choose to discontinue their applications because they have decided they are not eligible for assistance. We know that the ministry sometimes provides applicants with a preliminary opinion on their eligibility. Perhaps another reason people discontinue their applications is because the ministry has provided them with this opinion.

We wondered why the ministry does not track what happens to people who do not complete the application process given:

- the high number of people who begin the application process but don't complete it;
- the significant changes to the eligibility criteria and the application process introduced in 2002; and
- the ministry's commitment to provide assistance to British Columbians most in need.

In its *2002/2003 Annual Service Plan*, the ministry said it was enhancing its exit survey to determine whether the reasons for applicants not completing an eligibility interview was that they had found work. Despite this, the ministry still has not tracked what happens to applicants who abandon the application process.

The issue that remains unexamined is the precise nature of the reduction in the income assistance caseload. Is the reduction a result of more people leaving assistance for paid work, fewer people accessing and qualifying for assistance, or a combination of these?

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[37] The ministry told us that its pre-October 2005 data is not comparable to the post-October 2005 data due to differences in data collection and processing.

The ministry does have the ability to track what happens to applicants and clients. For the ministry's February 2007 report, *Outcomes of Those Leaving Assistance*, the ministry obtained clients' consent and used tax data to track what happened to those who stopped receiving assistance. The ministry described the process as follows:

> The most effective way of determining what happens to clients who leave assistance is to use client tax records. A linkage with tax data allows the ministry to determine what has happened to clients after they exit assistance by allowing subsequent annual employment and income history of participants to be tracked, as well as other circumstances such as participation in education, changes in marital status or moves to another province.
>
> In 2006, the ministry was successful in conducting a data linkage between ministry administrative data and tax data in Statistics Canada's Longitudinal Administrative Databank (LAD). The LAD is a 20 per cent sample of annual cross-sectional data of all tax filers and their families, and contains information on demographics, income, residence and other taxation data.[38]

Because the ministry collects social insurance numbers at the pre-application stage, it could use this same system to track what happens to people who abandon the application process before having their eligibility assessed. This would allow the ministry to accurately determine what it can now only guess at: The reasons why applicants don't complete applications. Tracking this information would enable the ministry to understand if applicants who abandon the process do go on to employment. Alternatively, the ministry could develop and use equally reliable and effective mechanisms to achieve the same purpose.

We know that in 2002, the ministry made significant changes to the eligibility rules and the income assistance application process, including the introduction of the three-week work search, lifetime limits and the two-year independence rule. Assuming that the goal of the three-week work search is to divert people from assistance to employment, and the goal of the time limits and the two-year independence rule is to discourage dependency on the system, it would be reasonable and prudent for the ministry to review whether these programs or criteria are achieving their goals.

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[38] Ministry of Employment and Income Assistance, *Outcomes of Those Leaving Assistance*, 1.

Ombudsman Findings

10. The ministry does not accurately track the number of income assistance applications it receives, approves and denies.

11(A). The ministry does not track what happens to people who discontinue income assistance applications.

11(B). The ministry lacks evidence to support its conclusion that the reduction in the income assistance caseload is a result of people leaving assistance for employment.

Ombudsman Recommendations

10. The ministry track the number of income assistance applications it receives. For each application, the ministry track whether it is approved, abandoned or denied. The ministry have this process in place by July 1, 2009.

11. The ministry use Statistics Canada LAD data to track whether people who discontinue income assistance applications move on to employment or educational programs within two months of discontinuing their applications and report this data publicly by September 1, 2010.
The ministry develop reliable and effective mechanisms to continue to track this and report the results publicly on an annual basis, beginning in 2011.

Persons with Persistent Multiple Barriers to Employment

The provincial government created the BC Employment and Assistance program in 2002, with the enactment of the *Employment and Assistance Act* and the *Employment and Assistance Regulation*. The goal of the program is "to assist people who are able to work in achieving sustainable employment while providing income assistance to those most in need." The BC Employment and Assistance program provides services to clients who are eligible for temporary assistance and disability assistance. Temporary assistance clients include people who are expected to work and therefore have employment-related obligations, those who are temporarily excused from work, and those who are designated as persons with persistent multiple barriers to employment.

The ministry describes the goal of the Persons with Persistent Multiple Barriers to Employment (PPMB) program as follows:

> The intent of PPMB is to recognize that barriers may affect a person's ability to search for, accept and continue employment, and to ensure that employment barriers are taken into consideration when assessing eligibility for assistance and applying work-related exemptions and sanctions.[39]

A person who has been on income assistance for at least 12 of the past 15 months and who faces employment challenges due to barriers, including a medical condition, may be eligible for PPMB status. Once designated as PPMB, a ministry client is:

- entitled to higher support rates;[40]
- entitled to apply for health supplements under Schedule C of the *Employment and Assistance Regulation*;
- entitled to an earnings exemption of $500 per month;[41]
- not expected to look for work;[42] and
- exempt from time limits for the receipt of income assistance.[43]

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[39] Ministry of Employment and Income Assistance, *Harmonization of Persons with Persistent Multiple Barriers (PPMB) Definitions and Earning Exemptions Policies*, 28 October 2005.

[40] The monthly payment ministry clients may receive is divided into a support allowance and shelter allowance. Support is provided for monthly expenses other than shelter. Shelter is provided for the cost of a person's residence (rent or mortgage, and utilities). A single person with no dependent children receiving regular income assistance is entitled to $235 in support and a $375 shelter allowance. A single person receiving PPMB benefits with no dependent children is entitled to $282.92 in support and a $375 shelter allowance. The single person receiving income assistance receives $7.80/day in support while the single person receiving PPMB receives $9.40/day in support. This is expected to cover all living expenses, except shelter costs.

[41] Earnings exemptions allow eligible clients to earn income (up to their monthly limit) without having those earnings deducted from their shelter and support allowances.

[42] Regular income assistance clients are expected to find and sustain employment. If they do not complete and comply with an employment plan, their assistance may be discontinued. PPMB clients are exempt from the requirement to look for work although, if they can work and find part-time employment, they are allowed to earn up to $500 per month and still receive full benefits.

[43] Under section 27 of the *Employment and Assistance Regulation*, income assistance is only available to people for two of five years (or 24 of 60 months). After this time limit is reached, a person becomes ineligible or reductions may be applied. The *Employment and Assistance Regulation* exempts some recipients from these time limits. For people with PPMB status, the time during which they have PPMB status is not included in the 24-month time limit.

The Employment Planning Process

The ministry's employment planning process is the process through which clients seek work and attempt to overcome any barriers that may interfere with their continued or future employment.

For clients with employment obligations, the employment planning process begins as soon as they are determined to be eligible for income assistance. Immediately following the eligibility interview, an employment and assistance worker (EAW) will ask a client a series of questions in order to complete the ministry's employability screen and employability profile.[44]

The ministry uses its employability screen to identify clients who are expected to work, and to assess whether clients have barriers to employment. The employability screen identifies past dependency on assistance, recent work history, education level, age, literacy and English proficiency. Based on responses to questions on these topics, an EAW calculates a score that helps determine whether according to the ministry, a client is:

- immediately employable;
- employable with short-term interventions; or
- employable with longer-term interventions.[45]

The ministry uses the employability profile to identify the nature and severity of any barriers to employment, as well as the programs, services or supports that could assist each client to overcome them.[46] These barriers may include:

- poor job search or communication skills;
- low literacy;
- lack of education and training;
- problems with transportation, shelter, or childcare;
- health or disability issues;
- a criminal record.

The screen and the profile are used to develop employment plans for clients, as well as to create voluntary participation plans for clients who are not expected to work.

Employment plans are supposed to be tailored to each person based on his or her strengths, abilities and health. Examples of activities that may be included in a plan are referrals to job placement, training programs or other services, or a requirement to conduct a work search. Plans for clients with barriers to employment are supposed to take into account their particular circumstances and so may require them to develop a resumé, participate in a ministry program, or research job opportunities (as opposed to actually applying for work).

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[44] See Appendix J for the ministry's employability screen. See Appendix K for the employability profile.

[45] People who score between 0 and 14 on the employability screen are considered to be either immediately employable or employable with short-term interventions. People who score 15 or higher on the employability screen are considered employable with longer-term interventions.

[46] The employability profile is mandatory for clients who score 15 or more on the employability screen. Ministry workers have the discretion to decide whether clients who score between 0 and 14 must complete the profile.

Ministry clients must comply with the terms of their employment plans in order to maintain their eligibility for assistance. Clients must submit a record of their work search or other activities to the ministry every month. EAWs review and monitor employment plans to ensure their clients are complying and making progress. The frequency of review varies depending on the type of plan and the length of time someone has been on assistance. The following is a list of the types of plans and how often they are to be reviewed.

Type of employment plan	Review frequency
Activities Towards Independence	Every 12 months
Supervised Independent Work Search	Every 30 days for the three-month duration of the plan
BC Employment programs	Every 15 months
Community Assistance program	Every 16 months
Bridging Employment program	Initially reviewed after 30 days and then every 90 days
Non-ministry funded program	Initially reviewed after 30 days, with a final review at the plan's end date (12-month maximum duration)

PPMB Eligibility Criteria

To qualify for PPMB status, a person must either meet the requirements set out in section 2(2) of the *Employment and Assistance Regulation* along with the requirements set out in either section 2(3) or 2(4).

To be eligible under subsections 2(2) and 2(3) of the Regulation a person must meet all of the following criteria:

- have received income assistance for 12 of the previous 15 months;
- have a medical condition, other than an addiction, which has been confirmed by a physician;
- have a medical condition that has either continued consistently or occurred frequently in the past year and is likely to continue for two more years;
- score at least 15 on the ministry's employability screen;
- have barriers that seriously impede the person's ability to search for, accept and continue in employment, based on the results of the employability screen;
- have a medical condition that, in the opinion of a ministry adjudicator, is a barrier that seriously impedes employment; and
- have taken all steps that a ministry adjudicator considers reasonable to overcome the barriers.

To be eligible for PPMB status under subsections 2(2) and 2(4), an individual must meet all of the following criteria:

- have received income assistance for 12 of the previous 15 months;
- have a medical condition, other than an addiction, which has been confirmed by a physician;

- have a medical condition that has either continued consistently or occurred frequently in the past year and is likely to continue for two more years; and
- have a medical condition that, in the opinion of a regional reconsideration adjudicator, is a barrier that precludes employment.

The ministry reviews PPMB designations every two years to determine whether clients continue to be eligible for the program.

Received Income Assistance for 12 of Last 15 months

To be eligible for PPMB status a person has to have received income assistance for 12 of the previous 15 months. However, some people already have significant and multiple barriers to employment when they first apply for income assistance.

We asked the ministry to explain the rationale for the requirement. It responded as follows:

> The 12-out-of-15 requirement was developed as a way of ensuring that clients have made all reasonable attempts to seek employment. A range of months (12-out-of-15, rather than just 12 consecutive months) was used to account for months where clients may have sought but were unsuccessful in sustaining employment.

In addition, in November 2005 then-Minister Claude Richmond provided the following explanation to the Ombudsman:

> Legislation recognizes that a person must have a medical condition that the Minister considers to be a barrier in order to meet PPMB criteria. It is difficult to determine in advance which clients will succeed in traditional programs and which clients will need additional supports. While people with certain characteristics are generally more likely to have difficulty moving to employment, the presence of barriers does not necessarily determine the outcome for a specific individual. As such, it is reasonable that a period of time elapse whereby the minister can make the determination that a barrier, whether medical or otherwise, has existed and has seriously interfered with or precluded employment.

In October 2007, Ombudsman staff conducted a random review of 25 PPMB files. We found several examples of people whose doctors confirmed, at the time they first applied for income assistance, that their severe medical conditions made them unable to work. Despite this, these people had to wait a year or more after applying for income assistance to be assessed for PPMB status. While the ministry stated that the goal of the 12-month period is to assess clients and help them overcome their barriers, we observed that these clients often had few or no obligations on their employment plans. For example, one client was only required to work with a service provider to create a resumé. Another client was only required to see his doctor and take his medications. For clients eligible under sections 2(2) and 2(4), it is the medical condition itself that is the barrier to employment. It is unlikely that the Ministry's programs can assist with overcoming these barriers. These clients are not required to have additional barriers and to be eligible they do not need to demonstrate that they have taken steps to overcome their barriers. For these clients, the requirement to be on assistance for 12 months before being eligible for PPMB status may be unreasonable.

For people who clearly have barriers they are unlikely to overcome in 12 months, such as a medical condition, the requirement to be on income assistance for 12 of the previous 15 months is unreasonable and unfair. To be clear, it is not our position that no one who may be eligible for PPMB status should have to wait 12 months before being assessed. When there is a reasonable likelihood that, with the help of the ministry, a person may be able to overcome his or her barriers, the 12-month period may appropriately allow this process to unfold. However, requiring everyone with barriers to employment to wait 12 months before being assessed for PPMB status is inconsistent with the program's stated purpose of assisting British Columbians in need.

Ombudsman Finding

12. In certain cases, the ministry's decision to deny people who it assesses as having significant multiple barriers to employment the opportunity to apply for PPMB status at the same time that they apply for income assistance is unfair and unreasonable because this decision delays the provision of benefits to some applicants who should be entitled to them.

Ombudsman Recommendation

12. The ministry take the necessary steps to include an exemption in the *Employment and Assistance Regulation* from the requirement to be on income assistance for 12 of the previous 15 months for people who, at the time they apply for income assistance, have barriers for which there is no program to remedy.

Confirmation of Medical Condition

In order to be assessed for PPMB status, clients must submit a medical report form to the ministry.[47] The form is to be filled out by a client's doctor, and must confirm the person's diagnosis, the duration of his or her medical condition, and explain any restrictions that should be considered when determining the impact of the condition on the person's ability to work or participate in job training. Part Four of the form instructs medical practitioners to "enclose copies of documentation that supports the severity and restrictions of the medical condition (e.g., laboratory reports, psychological reports, etc.)."

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[47] See Appendix L.

Doctors' Views on the Employability of Their Patients

The medical report form does not ask doctors to provide information on the effect of a medical condition on a person's ability to work. However, the ministry seems to consider this information useful and relevant when PPMB applications are being reconsidered. The guidelines it provides for adjudicators who are reconsidering PPMB decisions include these questions:

- Has the medical practitioner indicated that the applicant is unable to work?
- Has the medical practitioner indicated how the diagnosed medical conditions affect the applicant's employability?
- Does the available information suggest that the applicant may be seriously impeded or precluded from being employed?

According to the ministry, these guidelines are available and applicable to both those who make the original decisions on PPMB applications, as well as to adjudicators who decide reconsiderations. It therefore appears that the ministry does consider information about whether doctors think that their patients are able to work relevant, but does not ask about this on its medical report form.

Part Five — Certification

Part Five of the medical report form asks doctors to certify that they are licensed to practice medicine in British Columbia. It also asks doctors to indicate whether they have been their patient's doctor for less or more than six months. If less, doctors are supposed to indicate whether they have examined their patient's previous medical records.

As it was not obvious to us how this was relevant to determining PPMB eligibility, we asked the ministry how it uses this information. The fact that the ministry seemed to consider it relevant was somewhat surprising, given the transience of some of the ministry's clientele. It is also surprising given the shortage of family doctors and increasing numbers of people who seek medical care at walk-in clinics. It should be noted that ministry adjudicators do not have medical training. We would be concerned, for example, if the ministry used the information to devalue or disregard a medical opinion on the grounds that a doctor had been seeing a patient for less than six months.

The ministry explained that, "The intention of Part 5 of the medical report is to identify how much information and understanding the practitioner has about their client. It provides the adjudicator a historical perspective and additional context about the doctor/patient relationship. The information is not used to determine the eligibility of the client at any point." However, we remain concerned about the collection of this information and the ministry's approach to medical expertise.

Supporting Documentation

One of the concerns brought to our attention is that the ministry sometimes denies clients PPMB status because they have not provided sufficient information to prove that their medical condition and barriers either impede or preclude them from working. People told us that they believed that they had submitted adequate information to the ministry to demonstrate this and were not clear about what additional information to provide. The following complaint to our office illustrates this concern.

Ms. P was 54 years old and had been receiving income assistance since 1981. She was a PPMB client and was required to have her eligibility for PPMB reviewed after two years. When Ms. P's doctor filled out the medical report for her PPMB review, he confirmed that she had pain in her right hip and atrial fibrillation (an irregular heart rhythm). He said she had a very limited tolerance for exercise. Her doctor confirmed that her condition had existed for six years and was expected to last for more than another two years because it was chronic. Despite this information, the ministry determined that Ms. P was no longer eligible for PPMB status.

Ms. P requested reconsideration of the ministry's decision. In her request, she stated that she believed the ministry's decision was wrong because, due to her medical condition, her heart rate was very high and irregular. She said that as a result, she felt exhausted, dizzy and gasped for air after very little activity. She explained that she had episodes when her heart beat extremely quickly and when she was incapacitated. She also said that as a result of having arthritis throughout her entire body and especially in her right hip and knee, she found it difficult to sit or stand in one position for more than 15 minutes. Ms. P submitted a letter from her cardiac specialist that confirmed her medical conditions included atrial fibrillation, diabetes and hyperlipidemia (high cholesterol). In addition, the cardiac specialist noted that Ms. P's heart rate was regularly around 120 beats per minute and that she therefore became lethargic and fatigued after minimal effort, and so was unable to maintain employment. As a result of her multiple serious medical conditions, the specialist indicated that Ms. P should be considered unable to work.

On reconsideration, a ministry adjudicator denied Ms. P's application for PPMB status on the grounds that she did not provide clinical evidence regarding the severity of her medical conditions. In the decision, the adjudicator noted that many types of employment are sedentary and do not require physical activity or exercise.

Ms. P appealed the ministry's reconsideration decision to the Employment and Assistance Appeal Tribunal. Ms. P argued that the ministry must make a reasonable decision based on the evidence presented, and that her cardiac specialist provided evidence that her medical condition prevented her from working. Ms. P argued that it was unreasonable for the ministry to disregard her cardiac specialist's opinion since it did not dispute the evidence or have conflicting information. The tribunal accepted Ms. P's argument and rescinded the ministry's decision. As a result, Ms. P's PPMB status was reinstated.

Cases such as Ms. P's caused us to wonder what type of documents the ministry might require in addition to the medical report when assessing or reviewing eligibility for PPMB status. We found the existing policy unclear, so we asked the ministry to clarify it.

Ministry staff told us that the completed medical report form alone would be considered sufficient as long as it provided:

- the client's diagnosis;
- the duration of the client's medical condition;
- the severity of the client's medical condition; and
- the nature of any resulting restrictions that arose from the client's medical condition.

The ministry told us that if adjudicators are unclear whether the medical condition seriously impedes or precludes employment, they can seek guidance from the ministry's contracted medical consultant. As well, in September 2005, the ministry developed and implemented new guidelines for adjudicators who assess PPMB eligibility. The guidelines address the following issues:

- inconsistent information about a client's medical condition;
- missing information;
- supporting documents that are not submitted; and
- mental health conditions.

In January 2006, ministry staff told us they were reviewing the medical report form to ensure that its instructions were clear and that medical practitioners were aware of the circumstances in which additional information will be required. On June 23, 2008, the medical form was amended to include an explanation of the payment process for medical practitioners. The other instructions have not changed.

Ombudsman Finding

13. The form that the ministry requires applicants for PPMB status to have their doctors complete is inadequate because:

- **it does not provide adequate information to doctors about the PPMB program and document requirements;**
- **it does not provide an opportunity for doctors to include information about whether a person is capable of working, even though the ministry considers this information relevant at other stages of the application process; and**
- **it requests irrelevant information about the length of time a doctor has been seeing a patient.**

Ombudsman Recommendation

13. The ministry revise the PPMB medical report form so that it:

- **provides information to doctors about the PPMB program and documentation requirements;**
- **provides an opportunity for doctors to include information on how the client's medical condition affects his or her ability to work; and**
- **removes the request for information about the length of time a doctor has been seeing a patient.**

Medical Condition that Seriously Impedes or Precludes the Ability to Search for, Accept or Continue in Employment

To qualify for PPMB status, the Minister of Housing and Social Development must be of the opinion that a medical condition either seriously impedes or precludes a person's ability to search for, accept or continue in employment. At the outset of this investigation ministry policy stated that:

> A medical condition is considered to preclude the recipient's ability to search for, accept or continue in employment when the recipient is unable to participate in any type of employment for any length of time.
>
> A medical condition is considered to seriously impede the recipient's ability to search for, accept or continue in employment when the recipient is unable to participate in any type of employment for more than 10 hours a month.

One of the concerns brought to us was that this policy appeared to be in conflict with the *Employment and Assistance Regulation*, which permits a person with PPMB status to earn income. We have been told about clients who were denied PPMB status in situations where they were able to work only sporadically or on a very limited basis. In addition, it has been suggested that the definition of the terms "impede" and "preclude" in the ministry's policy may have discouraged people from requesting an assessment for PPMB.

We investigated whether these policy definitions were inconsistent with the *Employment and Assistance Regulation*, which entitles people with PPMB status to earn $500 per month without having that money deducted from their monthly payments. We concluded that the policy was inconsistent with the Regulation.

The ministry acknowledged the inconsistency. On March 1, 2006, the ministry published revised definitions of "seriously impedes" and "precludes" as well as a list of factors that its staff should consider when assessing PPMB eligibility. At the same time, the ministry also informed us that it had drafted and provided to its staff guidelines they should consider when assessing a person's ability to work.

The revised definition of "seriously impedes" now reads:

> A medical condition is considered to seriously impede the recipient's ability to search for, accept, or continue in employment when, as a result of the medical condition, the recipient is unable to participate in any type of employment that would enable independence from income assistance.

The factors considered when determining whether a medical condition seriously impedes employment now include:

- the number of hours a recipient can work;
- the hourly rate a recipient can earn;
- the skills and experience of the recipient;
- the impact of the medical condition on the recipient's ability to work full-time or part-time; and
- the impact of the medical condition on the recipient's ability to work on a regular or sporadic basis.

The revised definition for a condition that "precludes" employment reads:

> A medical condition is considered to preclude the recipient from searching for, accepting or continuing in employment when as a result of the medical conditions, the recipient is unable to participate in any type of employment for any length of time, except in a supported or sheltered-type work environment.

When determining if the nature of the employment is in a supported or sheltered-type work environment, the ministry considers the following factors:

- Is the focus of the work on socialization where the activities are highly supported or supervised (e.g., recycling workshop)?
- Is the recipient limited by the medical condition to very minimal hours on an infrequent basis (e.g., 1-2 hours of babysitting once or twice a month)?
- Is the recipient's involvement very sporadic or casual (e.g., occasional lawn mowing or housekeeping, or delivering flyers once a month)?
- Is the work more likely to be considered volunteering and compensation, if any, minimal (e.g., covers the costs of volunteering)?

We are satisfied that these revised definitions address the concerns raised with our office about the inconsistency between the Regulation and policy. However, we continue to receive complaints from individuals who have been denied PPMB status because they have not demonstrated that their medical conditions preclude or seriously impede their ability to search for, accept or continue in all types of employment. The following complaint to our office illustrates this concern:

Mrs. C's medical conditions included a deep vein blood clot in one leg, a fractured back, a leg injury, chronic back pain, and osteoarthritis. These ailments made it difficult for her to sit or stand for long periods of time or to drive unassisted. The ministry decided that Mrs. C was not eligible for PPMB because she scored a seven on the employability screen and did not have a barrier that precluded employment. She applied for reconsideration and by that time had scored 15 and 17 on the employability screen, and so was considered under both subsections 2(3) and 2(4) of the Employment and Assistance Regulation. On reconsideration the ministry found that Mrs. C was not eligible for PPMB because, "This information does not establish that your medical condition(s) seriously impedes your ability to search for, accept or continue in all types of employment." [emphasis added]

The Regulation requires that the medical condition be "a barrier that seriously impedes the person's ability to search for, accept or continue in employment," but does not require that the barrier seriously impedes all types of employment. Requiring the barrier to seriously impede all types of employment appears to impose a much stricter test than is set out in the Regulation. It is also inconsistent with the $500 earnings exemption provided to PPMB clients under the Regulation.

While the policy change is constructive, examples such as Mrs. C's illustrate that the changes are not being consistently applied by ministry staff.

Ombudsman Finding

14. **The ministry is not consistently applying its definitions of "seriously impedes" and "precludes" in determining eligibility for PPMB.**

Ombudsman Recommendation

14. **The ministry conduct a file review to determine compliance with the ministry's definitions of "seriously impedes" and "precludes" when staff determine eligibility for PPMB and report the findings publicly.**

The ministry told us that it believes that it has already implemented Recommendation 14 through the audit conducted by the Ministry of Finance's Internal Audit and Advisory Services (IAAS).[48] According to the ministry, IAAS's audit concluded that EAWs correctly used the criteria for "seriously impedes" and "precludes" in preliminary assessments of client eligibility for PPMB status. However, the intent of Recommendation 14 is for the ministry to review PPMB eligibility decisions to determine whether adjudicators are consistently applying the ministry's definitions of "seriously impedes" and "precludes," not for the ministry to review the preliminary work done by EAWs, whose role is to put the PPMB information package together and forward it to an adjudicator.

Employability Screen

As indicated previously, to be eligible for PPMB status under sections 2(2) and 2(3) of the Regulation, a person must score 15 or higher on the ministry's employability screen and have a medical condition that seriously impedes employment.

It is our understanding that the higher clients score on the employability screen, the more barriers to employment they are considered to have. We question the fairness of how some factors are rated in the ministry's employability screen. For example, one of the questions asks, "What is the highest level of education you have completed?" A person who has completed high school gets zero points, but a person who has a post-secondary degree or diploma scores one point. We asked the ministry for clarification of this scoring, since we did not understand why someone with more education would be considered to have greater barriers to employment than someone with less. The ministry explained that, "The rationale for this variation was that individuals who have completed post-secondary training and find themselves coming onto assistance would likely have non-educational reasons for needing help with finding and keeping a job." However, the ministry has not provided evidence to support this rationale.

In the course of our investigation we heard other concerns about the appropriateness and usefulness of the questions on the employability screen. We heard, for example, that some clients have seen dramatic fluctuation on their scores on the employability screen, despite the fact that their personal circumstances had not changed. Ombudsman staff also found large and inadequately explained fluctuations in these scores during our review of PPMB files. Given the importance of the score for individuals who are seeking benefits under this program, it is essential that the employability screen is an accurate and effective tool. The ministry has indicated that it intends to review the employability screen to determine its usefulness and effectiveness. We believe that this should be done without further delay.

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[48] For more information on the process leading to this audit, see the section of this report on the number of PPMB clients.

Ombudsman Finding

15. **The employability screen as used by the ministry is not a consistently reliable tool to determine the extent to which barriers to employment exist.**

Ombudsman Recommendation

15. **The ministry conduct a detailed review of the effectiveness of the employability screen in producing a useful measure of a person's ability to work and publicly report the results of this review. The ministry take these steps by December 1, 2009.**

Reasonable Steps to Overcome Barriers

To be eligible for PPMB status under sections 2(2) and 2(3) of the Regulation, clients must show that they have taken all reasonable steps to overcome their barriers to employment. When deciding whether a person has done so, ministry staff are directed to consider the client's participation in:

- employment programs;
- alcohol and drug programs;
- literacy training;
- adult basic education;
- employment programs for persons with disabilities;
- the ministry's Community Assistance program;
- the ministry's Bridging Employment program;
- a supervised independent work search.

We have received complaints about how the ministry assesses whether an applicant has taken all reasonable steps to overcome barriers to employment, and in particular, about how Appendix 1 of the PPMB Checklist is used.[49] Appendix 1 of the PPMB Checklist is supposed to contain a complete list of all of the locally available programs and services, and should be on hand in each Employment and Assistance Centre.

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[49] See Appendix M for the PPMB Checklist and its Appendix 1.

We heard from people who were concerned that the form does not ask ministry staff to consider whether the available programs and services are steps that the minister considers reasonable, as defined by the Regulation.

We reviewed the forms the ministry uses to assess PPMB applications. Appendix 1 of the PPMB checklist provides space for staff to list the services and programs available in the client's local area, and to indicate whether they are applicable and the client has tried them. There is also a space for staff comments, which appears to allow them to explain, for example, why a client wasn't referred to a particular program or service on the list. With respect to the concern that the form does not ask staff to consider whether the steps taken are reasonable, we believe this decision should be left to the person who conducts the PPMB adjudication. The information on the form should be used when considering that decision.

We also heard from people who said that staff do not consistently use Appendix 1 of the PPMB checklist. Our investigation did not consider whether each Employment and Assistance Centre maintains a current list of programs available in the community or the extent to which staff use this form. We think that it would be reasonable for the ministry to evaluate the use of the form to determine its effectiveness and to confirm that it is being used by staff for that purpose. One mechanism the ministry should consider to determine the effectiveness of Appendix 1 of the PPMB checklist is to look at how often the form is being used.

PPMB Assessment Process

A client can be assessed for PPMB status only after being on income assistance for 12 months. Unlike assistance under the ministry's Persons with Disabilities program, clients cannot apply for PPMB status themselves, although they can ask to be assessed for it.[50] An EAW or a third-party advocate may also request that a client's eligibility for PPMB status be assessed.

The role of the EAW in the assessment process is to prepare and gather the information that the ministry's adjudicator will review.[51] The EAW should meet with and ask his or her client questions to update the client's employability screen and profile.[52]

The EAW should also give the client a medical report form, which the client's doctor must complete.[53]

The medical report form, which is used as part of the assessment process, asks doctors to describe the history and expected duration of their patients' medical condition/s, treatments, and any resulting restrictions. Doctors are asked to enclose copies of documents that support their assessment of the severity of the condition/s and resulting restrictions. The ministry pays the fees doctors typically charge for completing this form.

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[50] A person with disabilities (PWD) is a person with a physical or mental impairment who is significantly restricted in his or her ability to perform daily living activities either "continuously or periodically for extended periods" and, as a result of these restrictions, requires assistance with daily living activities. The PWD program is a separate ministry program and clients who are eligible receive additional benefits from the ministry. More information about PWD is available on the ministry's website at http://www.eia.gov.bc.ca/pwd/eapwd.htm.

[51] PPMB assessments are conducted by regional reconsideration adjudicators.

[52] See Appendix J for the ministry's employability screen and Appendix K for the ministry's employability profile.

[53] See Appendix L, Medical Report — PPMB form.

An EAW then completes the PPMB checklist. The checklist asks the EAW to:

- check a box to indicate that the client has been on assistance for 12 of the last 15 months;
- provide the client's employability screen score;
- list all identified barriers to employment;
- list all interventions or programs available for each barrier; and
- indicate whether a medical practitioner has confirmed the client has a condition that has already continued for at least one year and is likely to continue for at least two years, or has occurred frequently during the past year and is likely to continue on that basis for at least the next two years.

The EAW then submits the PPMB checklist, the medical report form, the employability profile and screen, the employment plan, and any other relevant information to a ministry adjudicator.

The role of the adjudicator is to consider the information provided by the EAW and determine whether a client is eligible for PPMB benefits. If information is unclear, inconsistent or missing, the adjudicator may seek clarification from the medical practitioner or the ministry's medical consultant.

After an adjudicator makes a decision, he or she should record it on the PPMB checklist, and inform the client in writing of the decision and the reasons for it. If an adjudicator decides a client is not eligible for PPMB status, the client should be informed of his or her right to request that this decision be reconsidered. Reconsiderations are conducted by staff in the Health Reconsideration Branch of the ministry. If the client is determined to be eligible, the adjudicator should set a date for review of this decision and record it on the ministry's Management Information System (MIS). As indicated previously, PPMB eligibility is reviewed every two years.

The following summary of a complaint brought to our office illustrates some of the challenges that ministry clients may face during the PPMB assessment and review processes.

Mr. B was a ministry client who suffered from a head injury, chronic headaches and back pain. In 2004, Mr. B asked that he be assessed for PPMB status.

The ministry determined that Mr. B was not eligible for PPMB status at the end of August 2004. He requested that this decision be reconsidered, and in mid-September a ministry adjudicator upheld the decision that he was ineligible. Mr. B then appealed to the Employment and Assistance Appeal Tribunal, which, in mid-October, overturned the ministry's decision.The ministry gave him PPMB status in early November 2004.

Since PPMB designation lasts two years, Mr. B's status expired in October 2006. However, contrary to ministry policy, the ministry did not send Mr. B a letter informing him of this and directing him to contact the ministry for a review. His eligibility was therefore not reviewed and his PPMB status expired. Mr. B was not informed that his PPMB status expired and therefore did not have an opportunity to request reconsideration or appeal the decision. In fact, Mr. B erroneously believed that he continued to receive PPMB benefits.

PPMB Designation Reviews

The ministry reviews PPMB designations every two years to determine whether clients continue to be eligible for the program. Three months before this date, the ministry is supposed to write to clients to advise them of the upcoming review and ask them to book an appointment. At this appointment, an EAW will provide the client with a new medical report form, update the employability screen and employability profile, and complete a new PPMB checklist. Once all this information is gathered, the EAW forwards it to an adjudicator.

In January 2007, Mr. B temporarily moved out of the province, and therefore became ineligible for income assistance. His file was closed.

In mid-July 2007, after Mr. B returned to B.C., he applied for and began receiving income assistance benefits again. He continued to believe that he had PPMB status at the time of his move in January 2007. Had this been the case, according to ministry policy, he should have automatically been designated as PPMB again, since he re-applied for assistance within 12 months.

In September, Mr. B inquired about his PPMB status. He was told that he did not have PPMB status, and that if wanted to be assessed for it, he would have to submit a new medical form to the ministry. He did submit a new medical form in November 2007. However, his EAW told Mr. B that based on information his doctor had provided on the form, he would not qualify. The EAW said that in order to proceed, his doctor would have to fill out another medical form.

Mr. B submitted the new medical form and a letter to the ministry in early December 2007. The next day, Mr. B's EAW told him that his PPMB application might need more information in order to move on to the adjudication phase, and suggested that he get yet another medical form filled out by his doctor.

In early December, Mr. B wrote to a manager of service quality with the ministry, stating:

> *One month ago I submitted PPMB form from my doctor, it has not been reviewed. The social worker, who now deals with me over the phone, told me that I had to get a new form and fax it to him. I did fax the new PPMB form to him yesterday, December 5, 2007.*
>
> *He called me back and stated that PPMB would be denied as well. How does he know that if he is not the one who is supposed to make the decision? Does he have a medical degree to challenge my doctor's opinion? Why is he so sure?*

Mr. B did not receive a response to this letter. Frustrated that the ministry would not make a decision on his PPMB status, Mr. B contacted an advocacy organization for help. In early January 2008, Mr. B's advocate spoke to another EAW who confirmed that Mr. B's medical report was on file. The EAW was surprised that it had not been put forward for adjudication.

In early January, Mr. B's advocate spoke to the staff person Mr. B was working with. The staff person explained that since the medical report lacked information and a diagnosis, Mr. B should have another one completed. Mr. B's advocate maintains that she asked the staff person to send Mr. B's medical form to an adjudicator, and said she would assist him with requesting reconsideration if he was denied. Despite this, Mr. B's forms were not sent to an adjudicator.

In May 2008, Mr. B's wife and daughter were added to his file and he was told that the eligibility of his family unit would have to be reviewed. The ministry then determined the family was not eligible for assistance for the month of June, because their combined income was above the allowable limit.

In early June 2008, Mr. B wrote a letter to the ministry's deputy minister outlining his concerns and requesting reconsideration of this decision. He argued that the ministry had miscalculated his family's income and also that the decision was unfair because if he had been designated as PPMB, he would have been entitled to a $500 earnings exemption each month, making him eligible for income assistance. He could also have enrolled in the ministry's self-employment program, which would have meant that he could deduct his business expenses from this income. Mr. B never received a response to this letter.

Mr. B was granted a reconsideration, but in early July 2008, a ministry adjudicator upheld the decision that he and his family were not eligible for income assistance. The adjudicator only considered the issue of whether Mr. B had income in excess of the allowable limit. With respect to Mr. B's concerns about his PPMB status, the adjudicator stated:

> *Your PPMB status expired in Oct. 2006. You did not make application for PPMB status at that time, nor did you request a reconsideration of the termination of your PPMB status…*
>
> *The issue of PPMB designation is not the issue before me to reconsider although I do recognize the importance of it to you. I will forward your concerns to the Manager of Quality Service for her to investigate your complaint. I can advise you though that it appears that there was no follow up to complete your application for PPMB after the worker from the Ministry and the [advocacy group] worker advised you to go back to your doctor and have another medical report completed.*

Mr. B did not hear from the Manager of Quality Service. Mr. B appealed the adjudicator's decision to the Employment and Assistance Appeal Tribunal. In early August 2008, the tribunal upheld the adjudicator's decision that Mr. B's income exceeded the allowable limits. The tribunal did not consider whether Mr. B's income was assessed incorrectly because the tribunal calculated that even if his income was correctly assessed, it would still exceed the allowable limit.

After all this had happened, Mr. B. contacted our office to complain about the PPMB assessment process. Mr. B believed that he continued to be eligible for PPMB because his medical condition had not changed. He stated that if he was eligible for PPMB that he would be entitled to a $500 earnings exemption and enrollment in the Self-Employment program. We investigated his complaint that the ministry had unfairly terminated his PPMB status and unreasonably delayed adjudicating his continued eligibility.

After reviewing Mr. B's ministry file and meeting with ministry staff to discuss his situation, our view was that the ministry did not follow its policy or a fair process regarding Mr. B's PPMB status. Specifically, with respect to the expiry of Mr. B's PPMB status the ministry:

- *did not send Mr. B a three-month notice letter informing him that his PPMB status was going to expire;*
- *decided that he was ineligible for the PPMB program (because his status expired), even though it did not assess his ongoing eligibility; and*
- *did not inform Mr. B of the decision that he was ineligible or provide him with a right to request reconsideration.*

With respect to the assessment of Mr. B's eligibility for PPMB after he went back on income assistance, the ministry:

- *unfairly requested that Mr. B submit multiple medical report forms;*
- *neglected and unreasonably delayed sending Mr. B's PPMB assessment information to an adjudicator;*
- *failed to respond to Mr. B's correspondence and concerns; and*
- *unreasonably delayed its decision about Mr. B's eligibility for PPMB status.*

We were also of the view that the ministry miscalculated Mr. B's June income and did not address this concern when Mr. B raised it with the ministry.

Our opinion was that Mr. B had been attempting to receive a decision from the ministry regarding his PPMB status since November 2007. Despite the fact that Mr. B complained to a ministry staff person, sought help from an advocate, wrote separate letters to the ministry's manager of service quality and its deputy minister, and raised his issues at both reconsideration and appeal, the ministry did not make a decision on his eligibility for PPMB until late September 2008, when the ministry determined that he was not eligible for PPMB. This was almost an entire year after his original request, and did not happen until after the Ombudsman's office began investigating his complaint. Our view was that the ministry had many opportunities to remedy Mr. B's complaint prior to our intervention.

In response to our investigation of Mr. B's complaint, ministry staff took the following steps:

- *made his PPMB eligibility retroactive to October 2006 and paid him the difference in support rates for the period between October 2006 and September 2008 (except for the months he was ineligible because he was living outside the province);*
- *backdated Mr. B's eligibility for the ministry's self-employment program and exemptions to October 2006. Mr. B received a total of approximately $5,000 as a result of this change and the retroactive benefits noted above;*
- *sent him a written apology;*
- *reminded regional staff of the process to follow when clients submit medical reports, which also clarified the role of the EAWs when receiving these reports; and*
- *made a decision about his ongoing eligibility for PPMB status and determined that Mr. B was not eligible.*

After all this, Mr. B requested reconsideration of the decision denying his eligibility for PPMB status. At the end of October 2008 the ministry's decision was upheld at reconsideration. In that decision, the ministry concluded that Mr. B was not precluded from employment because he earned money from his home-based business. Mr. B appealed the ministry's decision to the Employment and Assistance Appeal Tribunal. In mid-December 2008, the tribunal rescinded the ministry's decision and determined that Mr. B was eligible for PPMB explaining that the ministry's reconsideration decision did not properly interpret the ministry's current definition of precluded from employment The tribunal determined that because Mr. B. could only work in a supported or sheltered environment that he met the definition.

One of the points that should be apparent from Mr. B's story is the importance of staff clearly understanding their roles and staff applying ministry policy in their decisions. From the tribunal decision it is clear that ministry staff were not consistently applying the current definitions of "seriously impedes" and "precludes." Mr. B's experience also illustrates the importance of having effective quality control and complaints mechanisms that are responsive to client needs.

Analysis of PPMB Assessment Process

In the course of our investigation, we reviewed the publicly available information about the PPMB program. While information about the PPMB program and eligibility criteria is available from the ministry, the ministry does not provide it to clients when they apply for income assistance. A client must know to ask for the information in order to receive it. The ministry does provide some written information about the PPMB program on the "Online Resource" (OLR) section of its website. However, not all ministry clients have access to the Internet, and until very recently, the written information about PPMB available on the OLR was limited.[54] For example, the OLR included information about the eligibility criteria for PPMB status, but did not include information on how a person could be assessed for PPMB. The ministry does have a PPMB factsheet online but there too, the information is not complete.

In order for programs to be accessible to the public, sufficient information about them should be readily available. Without adequate and accessible information, people who could potentially benefit from a program may not be aware of it.

In the case of the PPMB program, the ministry appears to rely on its staff to identify clients who may be eligible. A person can not apply for PPMB. In order to be assessed, a person has to make a request to an EAW or wait for the EAW to suggest that an assessment might be appropriate.

We asked the ministry how it ensures that people who may be eligible for PPMB status are assessed. On September 18, 2007 ministry staff responded:

> EAWs [Employment and Assistance Workers] review the essential information once the client has been on assistance for 12 of 15 months and are trained to consider Persons with Persistent Multiple Barriers (PPMB) when as a result of ongoing employment planning and monitoring process, there is some evidence that a recipient may meet the PPMB criteria or when a recipient requests an assessment for PPMB.

The ministry's response suggests that workers monitor clients' progress towards employment and identify those who may have barriers. It is our understanding, however, that the majority of ministry clients do not have designated workers. In 2002, the ministry moved to a shared service model. This means that the majority of ministry clients are not assigned to work with a particular staff person. Instead, ministry staff share cases, and clients access services through an Employment and Income Assistance office, or through the ministry's toll-free telephone line. The ministry explained that in its view, this allows staff to service clients sooner since any worker is able to work with a client who needs help. If necessary, the ministry is able to assign a particular staff person to work with a client. Clients have told us that it frustrates them when they have to explain their circumstances to a new person every time they call in.

We are concerned that this new way of delivering services means that EAWs may not be familiar enough with the particular circumstances of clients to identify those who may have barriers that warrant a PPMB assessment. When each client had a single EAW, the EAWs would have been in a better position to understand both the barriers faced by their clients and the supports they required to overcome them.

We believe that all clients should be provided with clear and sufficient information about the program and allowed to apply for PPMB status themselves.

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[54] In October 2008, in response to our investigation, the ministry put its staff procedures on the "Online Resource" section of its website. See http://www.gov.bc.ca/meia/online_resource/.

Ombudsman Finding

16. The ministry does not provide adequate information to income assistance clients about the PPMB program, including about how a client can be assessed.

Ombudsman Recommendations

16(A). The ministry provide clear written information about the PPMB program to all people applying for income assistance by March 31, 2010.

16(B). The ministry create a form that clients can use to apply for PPMB status themselves by March 31, 2010.

PPMB Reconsiderations

Clients who disagree with a decision about their eligibility for PPMB status can request that the decision be reconsidered. If they disagree with the reconsideration decision, they have the further option of appealing to the Employment and Assistance Appeal Tribunal. A concern raised with our office was that staff who worked in the same office were conducting both the original assessments of eligibility for PPMB status and the reconsideration decisions for clients who disputed the results of those assessments. The concern was that there was potential for bias in this decision-making process. Our office confirmed that this was in fact the ministry's practice. This was troubling since adjudicators could find it difficult to make impartial decisions when doing so could negatively impact their relationships with their co-workers.

Procedural fairness requires that a decision-maker must not only be impartial, but must also appear to be so to a reasonable person. Both the reality and the appearance of impartiality are necessary to maintaining public confidence in decision-making processes. Biased decision-making can stem from either an individual decision-maker, or the decision-making process. In order to be unbiased, an individual must not have a personal interest in the outcome of a decision and must not prejudge the issue. In order to be perceived as unbiased, a process must be structured so that decision-makers are able to both be impartial, and be perceived as such.

In the ministry's case, regardless of whether the adjudicators were actually acting impartially, the established process of reconsiderations was not structured in away that avoided creating a reasonable apprehension of bias.

In response to our previous investigation, the ministry moved responsibility for all reconsiderations of PPMB status to the Health Reconsideration Branch (HRB) in July 2006.

We asked the ministry whether there were any other instances where reconsideration decisions were being made by staff working in the same office as those who had made the original decisions. On August 1, 2007, the ministry told us that it had conducted an internal review and identified two other situations in which this had occurred. The ministry also changed the reconsideration process in these other situations.

The Number of PPMB Clients

Claude Richmond, who was then Minister of Employment and Income Assistance, stated in June 2007 that "More than two-thirds of British Columbians on income assistance consist of Persons with Disabilities (PWD) and Persistent Multiple Barriers to Employment."[55] The ministry also noted in its *2006/07 Annual Service Plan Report* that:

> The Ministry's caseload composition has shifted in recent years: the number of employable clients has decreased dramatically, while the number of Persons with Disabilities clients and other clients who face more serious barriers to employment has steadily increased.

While we acknowledge that the number of PWD clients has increased, our review of the ministry's statistics shows that the number of PPMB clients has not increased. The following is the average number of people who received PPMB benefits in the years 2003 to 2007:

Fiscal year	**Average number of people who received PPMB benefits**
2003/2004	10,586
2004/2005	12,111
2005/2006	8,995
2006/2007	7,593

In fact, the ministry has confirmed that the number of PPMB clients it serves has decreased by 28 per cent since 2003/04, to the point where it is now at the lowest level since the program was introduced. This is despite the ministry's expectations that the number of PPMB clients would increase. We are concerned that the ministry has no reliable explanation as to why fewer and fewer people are receiving services under the PPMB program.

Given the significant decrease in the number of people receiving services under the PPMB program, it would have been appropriate and prudent for the ministry to take a close look at this trend, and to ensure that its services were accessible and responsive to those who might need them. The ministry did take some steps in this direction. In October 2006, during the first part of this investigation, the ministry informed our office that due to ongoing concerns about the PPMB assessment process, the ministry would conduct an audit. The results of the audit were expected by April 2007.

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[55] Minister of Employment and Income Assistance, *Message from the Minister and Accountability Statement*, 20 June 2007.

On June 12, 2007, we asked the ministry for an update on the status of the audit. Ministry staff told us that as part of their audit plan, they had requested that Internal Audit and Advisory Services (IAAS) (within the Ministry of Finance) conduct a review of the PPMB adjudication process. They explained that IAAS began the audit in January 2007, but cancelled it without consulting with the Ministry of Housing and Social Development.

On August 1, 2007 we contacted IAAS to clarify why they cancelled the audit. IAAS told us they had understood from a conversation with a ministry official that the ministry would be reviewing the PPMB program internally to determine why enrolment was declining. IAAS told us that they decided to cancel the audit to avoid duplicating the ministry's planned work and because, in IAAS's view, an internal review would have greater freedom and scope than one done by IAAS. It is clear that between January 2007 and June 2007 there was a divergence of views about what was happening in regards to a review of the PPMB program. Ultimately however, it is the ministry that was responsible for ensuring that a review was being conducted.

On June 15, 2007, three days after our office made enquiries about the status of the audit, the ministry requested IAAS to reinstate it. IAAS resumed its audit in June 2007 and in November 2008, both the ministry and IAAS provided the Ombudsman's office with a draft of the audit. While at the time of this report's publication the audit was not yet finalized, several of the issues it identified appear to be consistent with those discussed in this report.

Ombudsman Finding

17. **The ministry failed to ensure that the PPMB program was reviewed in a timely manner after acknowledging that it could not explain the reduction in its PPMB caseload.**

Ombudsman Recommendation

17. **The ministry complete a review of the PPMB program to determine the reasons for the reduction in its caseload since 2003/2004 and report the results publicly by October 1, 2009.**

Medical and Other Documentation Requirements

The focus of this part of our investigation was on the fairness of the ministry's documentation requirements. Ministry clients are required to submit a variety of documents in order to apply for and receive benefits. These requirements are, to some extent, unavoidable. The ministry must be able to verify the identity of applicants, and since public dollars are being spent, must also be satisfied that applicants' needs are genuine. We looked at whether the ministry's documentation requirements are reasonable and fair, keeping in mind the physical, mental, education and social challenges that a large percentage of applicants and ministry clients face. In order for a process to be administratively fair, we believe that the ministry should not request information and documentation beyond what it needs to assess eligibility for a benefit. The ministry should also strive to avoid asking clients to resubmit information they have already provided.

Documents the Ministry May Require

Applicants for income assistance need to provide the ministry with a variety of documents. Requirements vary depending on individual circumstances, but may include:

- identification, such as a social insurance card, BC ID card, driver's licence or status card;
- proof of employment history, such as an application for employment insurance, and/or records of employment;
- proof of job-search activities, such as a resumé, a record of contacts made, or if unable to look for work, a doctor's letter;
- information about income and assets such as records from employment insurance, notices of assessment, bank statements, pensions, court documents, or other financial records;
- information about shelter costs, such as rent receipts and agreements, utility bills, mortgage papers, or property tax assessment notices.

In addition to the documents required when applying for income assistance, ministry clients who wish to apply for supplements must submit documents to support their applications. A variety of supplements may be available to ministry clients who can demonstrate they have special circumstances or temporary needs. For example, the ministry may issue supplements for ongoing medical transportation for "extraordinary and predictable appointments" that have been confirmed in writing by a medical practitioner. To apply for a medical transportation supplement, clients must submit written verification from a doctor, including a description of the following:

- the medical condition;
- the number of appointments per week necessary for treatment of the condition;
- the types of medical appointments;
- the expected duration of treatment; and
- the reasons why a client is unable to use public transportation, if applicable.

Medical and Other Documentation Requirements

We investigated the fairness of the following:

- requiring clients to submit medical information when their medical condition is identified as chronic or ongoing;
- requiring clients to submit new sets of the same information for each different benefit they receive; and
- various other ministry practices regarding documentation.

Requiring Clients with Chronic or Ongoing Conditions to Resubmit Medical Documents

Ministry clients may be eligible for a variety of health supplements, which are set out in sections 2 and 3 of Schedule C of the *Employment and Assistance Regulation* and the *Employment and Assistance for Persons with Disabilities Regulation.* These include supplements for diet, medical equipment and devices, disposable medical and surgical supplies, transportation to medical appointments, physiotherapy, chiropractic treatment, massage therapy, podiatry, acupuncture and naturopathy.

One of the issues raised with our office was that the ministry's practice of requesting reconfirmation of chronic or ongoing medical conditions may have detrimental effects on the people who it is meant to assist. We heard that when the ministry repeatedly requests medical documents from clients with ongoing or chronic conditions, clients must again ask their doctors to complete forms and re-send letters to the ministry. This frustrates medical professionals and may damage patient-doctor relationships. We have been told that some ministry clients have been charged extra fees to fill out forms or to write letters when forms do not exist. Given the amount of money that ministry clients have to cover their living expenses, any such fee is difficult to pay.

Diet Supplements

When clients require a special diet as a result of a medical condition or other dietary need, the ministry may assist them by providing monthly supplements. To be eligible for a diet supplement, clients must provide written confirmation of their diagnosis from a medical practitioner or a dietician. This confirmation must include their specific medical condition, the diet required, and the expected duration of treatment.

At the outset of this investigation in March 2005, ministry policy provided that diet supplements could be authorized for a maximum of one year. Extensions beyond this time required reconfirmation of the continuing need. We questioned why the ministry required clients with chronic or ongoing medical conditions to reconfirm their conditions and expected duration of treatment every year.

In response to our investigation, the ministry revised its policy and procedure on diet supplements. As of April 19, 2006, the new policy states that when a diet supplement is approved, the employment and assistance worker (EAW) will assign a review date based on what the client's doctor has said is the expected duration of the need. Clients with a chronic or ongoing medical condition can now be assigned a review date of up to two years from the date the supplement is first approved. A client with an acute or short-term medical condition will be approved for a diet supplement for a maximum of one year.

As well, in order to streamline the process and minimize the need for clients to repeatedly submit documents, the ministry now reviews clients' files prior to requesting new medical information. The need for updated documents can be waived when the information on file confirms a supplement is required due to a chronic or ongoing condition. New information is only requested when what is already on file does not support a continued need for the supplement. The ministry has developed guidelines to assist its staff with establishing review dates, conducting reviews and deciding whether the requirement for updated documents can be waived.

Medical Transportation Supplements

Medical transportation supplements are intended to meet the costs of transportation that clients require in order to obtain essential medical treatment. To be eligible for such a supplement, clients must provide proof from a medical practitioner of their need for the requested transportation. Clients must also supply an estimate of what the transportation is expected to cost.

At the outset of this investigation in March 2005, ministry policy was that supplements were available to cover costs of travel to "extraordinary and predictable appointments" for up to six months. Extensions were only considered after a review of updated information, including re-verification of the need by a medical practitioner. We questioned whether, if a medical practitioner had identified the duration of the treatment as longer than six months, a client should have to reapply.

In response to our investigation, the ministry revised its medical transportation policy. The new policy came into effect on April 19, 2006. It states that ongoing medical transportation supplements for appointments confirmed in writing by a medical practitioner may be authorized for up to 12 months. If an extension is required, ministry staff will first review the medical information already on file for the client to determine whether it supports an extension. If not, the worker may ask the client for permission to contact his or her medical practitioner in order to confirm the continuing need. If updated information is required, the worker will give a written explanation of what is needed to the client and the client will be given a reasonable time to obtain the new documents before the supplement is cancelled. As of September 1, 2007, ministry policy clearly stated that supplements would only be discontinued when:

- a worker has reviewed a client's file and decided that he or she is no longer eligible for the supplement;
- the client has been notified of this decision and the reasons for it; and
- the client has been informed of his or her right to request reconsideration of the decision.

Medical Supplies

Supplements to cover the costs of medically essential disposable supplies may be provided to ministry clients. To be eligible for this type of supplement, the supplies must be prescribed by a medical practitioner, used in a medical procedure or treatment, and necessary to avoid an imminent and substantial danger to health. The client must also have no other resources available to cover the cost of the supplies.[56]

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[56] *Employment and Assistance Regulation*, B.C. Reg. 263/2002, Sch. 2, s. 2.

In March 2005, we asked the ministry to clarify whether there is a limit to the amount of time that supplements for medical supplies may be issued or whether they can be issued for the expected duration of the need. The ministry explained that although not reflected in policy, the maximum amount of time that supplements for medical supplies can be authorized is two years.

In order to make practice consistent with policy, the ministry revised its policy in 2006. It now states that medical supplies may be approved for the period of time indicated on the prescription, to a maximum of two years.

Requests from clients for supplements to purchase medical supplies on an ongoing basis are directed to the ministry's Health Assistance Branch (HAB), which will assign a review date to the request when it is approved. As of December 1, 2006, HAB is required to write to clients with ongoing medical supply needs three months prior to their review date. These letters ask clients to confirm that the approved supplies are still required and existing quantities are correct. If there are no changes, clients or caregivers can renew the approval by simply signing and return a copy of the letter to the HAB. Requests for significant increases in quantity may require additional supporting information from a doctor, but HAB will approve requests for minor increases without additional information.[57]

The ministry informed us that it only uses this review process for ongoing medical supplies, but that it will be consulting its field staff to see if it could be applied to other health supplements.

Monthly Nutritional Supplements

Clients who receive disability assistance and who have severe medical conditions that cause "chronic, progressive deterioration of their health with symptoms of wasting," may be eligible for a monthly nutritional supplement. The supplements are intended to prevent imminent danger to life by providing specific essential items to supplement regular nutritional needs.[58]

Ministry policy states that recipients of a monthly nutritional supplement may at any time be required to confirm their ongoing need by obtaining an opinion from a medical practitioner other than their own. We asked the ministry to clarify the circumstances under which it may require this.

The ministry explained that it might ask for further clarification or a second opinion if a client or his or her doctor submitted information that was inconsistent with what had been previously provided. In these cases, the EAW would call the doctor in question to obtain clarification. The ministry explained that to date it has not requested a client to obtain a second medical opinion, but that if it was required, the ministry would cover the costs of obtaining it.

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[57] However, if clients request a new medical supply item, the review letter will direct them to provide HAB with updated information from their medical practitioner.

[58] *Employment and Assistance for Persons with Disabilities Regulation*, B.C. Reg. 265/2002, Sch. 2, s. 7.

Short-term Nutritional Supplements

Short-term nutritional supplements may be provided to ministry clients who need more calories than are supplied by their regular diets in order to recover from surgery, severe injury, serious disease or the side-effects of medical treatment.[59]

As the regulations specify that short-term nutritional supplements can be provided for a maximum of three months, we asked the ministry to clarify whether a recipient could re-apply for this supplement after this time had passed. We also asked the ministry to explain how it would respond if a doctor identified, for example, a four-month need for additional calories. The ministry indicated that regulations limit the provision of short-term nutritional supplements to three months. However, the ministry explained that after three months, clients can re-apply for the supplement by providing updated documents. We were satisfied with this response.

Conclusion

As outlined above, in response to our investigation, the ministry introduced new policies and procedures in March 2006 that were designed to reduce the need for repeat submissions of medical documents by clients with ongoing conditions. We believe that the changes are positive. However, we remain concerned that there may be other circumstances where the ministry requires a client with a chronic or ongoing medical condition to resubmit medical information and re-apply for supplements. The case of Mr. W, who complained to our office in 2007, is one such example.

Mr. W had life-threatening environmental allergies and was required to wear masks and filters in public. In 2004, Mr. W applied to the ministry to cover the costs of these items. His request was denied by the Health Assistance Branch on the basis that masks and filters are not breathing devices, which clients can apply for assistance to obtain, but instead environmental controls. Mr. W requested reconsideration of this decision but it was denied on the same basis. Mr. W. Then appealed to the Employment and Assistance Appeal Tribunal, which rescinded the ministry's decision. As a result, the ministry made a new decision and issued Mr. W supplements to cover the costs of masks and filters for one year.

In 2005, despite the fact that his condition had not changed, Mr. W was told that he had to re-apply for supplements and reconfirm his medical condition. His request was again denied by the Heath Assistance Branch. However, after he complained, the branch reviewed its decision and chose to rely on the tribunal's earlier decision, and so issued the masks and filters for another year. In 2006, Mr. W was again told to re-apply for the supplement and to reconfirm his medical condition. He did so and his request was approved for another year.

When Mr. W was told to re-apply for the supplement again in 2007, he complained to our office. We investigated the fairness of requiring Mr. W to re-apply for the supplement every year, given that Mr. W's doctor had confirmed that his condition was chronic and ongoing. We asked ministry staff why they would require Mr. W to repeatedly re-apply and face the possibility of denial when his medical condition was never expected to change.

In response to our investigation, the Health Assistance Branch simplified the process required for Mr. W to replace his supply of masks and filters. Now when his supply runs low, he can call the branch, which has agreed to process his request without requiring an application or reconfirmation of his medical condition.

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[59] *Employment and Assistance Regulation*, B.C. Reg. 263/2002, s. 74.

Ombudsman Finding

18. It is unreasonable and unfair to require ministry clients to repeatedly reconfirm their chronic or ongoing medical conditions in order to continue receiving health-related supplements.

Ombudsman Recommendation

18. The ministry review its policies and procedures on an ongoing basis to identify and eliminate any circumstances in which clients with chronic or ongoing medical conditions are required to reconfirm these conditions to continue to receive health supplements.

Requiring Clients to Submit New Sets of Documents for Each Benefit

Once approved for income assistance, clients who wish to apply for additional benefits or supplements must demonstrate their eligibility each time they do so. This may involve providing documents, such as a form completed by a doctor, to verify a medical condition. If a client applies for more than one supplement or more than one benefit, he or she may be requested to submit medical documents or reconfirm a medical condition despite having already provided this information in support of another application. For example, a person who wants to apply for a monthly diet supplement in addition to a supplement to cover transportation to medical appointments might be required to provide two letters from the same doctor describing the same medical conditions.

The concern raised with our office was that requiring clients to provide new medical documents each time they apply for a benefit imposes unreasonable and unnecessary burdens on both clients and their doctors. Since in some cases doctors charge fees to complete these forms, this requirement can be a financial hardship, and may discourage clients from applying for the benefits.

We asked the ministry to explain what practices it has in place to ensure that clients are not required to submit documents and information that they have already provided.

The ministry told us it recognizes that, in certain instances, submitting additional or duplicate documentation may not be necessary. In response to our investigation, the ministry reviewed its policies and practices on the collection and use of medical documents. The following section outlines the practices the ministry now uses.

Best Practices

The ministry told us that although there is not a general policy, it expects its staff to use the following strategies to reduce the number of times they request clients to supply documents that they have previously submitted:

- Staff record the details of health supplement requests on each client's electronic and physical file.
- Staff routinely check electronic and onsite physical files to see if the information required to approve health supplements is already there.
- Field staff can request information about existing documentation from the Health Assistance Branch.
- During the adjudication process, HAB staff contact health professionals to seek the clarifications or additional information required to make a decision.
- Staff use the Online Resource (OLR) section of the ministry's website for guidance and direction.

We asked the ministry to explain how it ensures that staff use these strategies. On June 18, 2007, the ministry told us that it would send out an advisory reminding all staff of the best practices. Later, the ministry decided not to do this. Rather, the ministry told us that for specific supplements, the OLR section of its website instructs staff to review the medical documentation on file and to request updated medical documentation only when required.

Information-Sharing Pilot Project

In February 2007, the ministry initiated a small pilot project to consider how staff could use existing information on file rather than require clients to resubmit information the ministry already possesses. The ministry explained the results of the pilot as follows:

> While the sample size of the pilot was small, the information gathered indicated that in many cases where the client had not provided all of the required documentation at the initial request, the ministry worker was able to locate the missing information in the client's electronic or paper file. The majority of these requests were for diet supplements.

As a result, on July 30, 2008, the ministry changed its diet supplement policy so that it directed staff to review the medical information on file before requesting new documents. In cases where the recipient has already provided enough medical information, the EAW can waive the requirement for new medical information.

Development of New Computer System

After reviewing its policies and practices, the ministry informed us that it plans to develop a new computer system that will minimize document requirements. The ministry explained that it is now developing and implementing the Multi-Channel Service Delivery (MCSD) initiative, with the goal of using information technology to improve services. The ministry told us that its goal is to fully implement the new system by 2010.

The ministry has also introduced the Client Transaction System (CTS). According to the ministry, the CTS provides its staff with the ability to scan and electronically store documents and improves their capacity to access and retrieve these documents. The CTS system is now used across the province to retain, store, track and access documents on client files. This change was completed in March 2008. According to the ministry, staff routinely review a client's electronic file and the CTS before requesting documents to ensure that they are not already on file. The ministry also said that documents are now scanned into the CTS and returned to clients, with the exception of specific forms that the ministry is required to keep the originals. Documents are returned to clients if they provided them in person or upon request.

While these recent actions have gone a long way to improving the ministry's performance in this area, these technological advances and the ministry's expectations have not been reflected in policy. While the ministry has provided its staff with tools to reduce the number of times they request clients to resubmit documents, expected practices should be formalized in ministry policy.

Ombudsman Finding

19. The ministry has not developed a policy that reflects its new practice expectations for requiring clients to submit documents that they have already provided to the ministry and the ministry's expectation that the documents be returned to the client.

Ombudsman Recommendation

19. The ministry develop a clear policy directive that requires staff to review the documents that are on file before requiring clients to submit new documents and to return the original versions to clients. The ministry develop this policy directive by September 1, 2009.

Fairness of the Ministry's General Documentation Requirements

Ministry workers may request a variety of non-medical documents when verifying client information or determining a person's eligibility for assistance. These may include pay records, T4 slips, records of employment, tax returns and rental agreements.

Concerns were expressed to us about applicants being exposed to unnecessary risks and unreasonable delays while they attempt to obtain documents requested by the ministry. For example, refugee claimants and convention refugees may be asked to provide documents from their home countries that are difficult, time-consuming or even impossible to obtain. Concerns were also expressed to us about a lack of accommodation on the ministry's part for clients who are having difficulty with documentation requirements.

The following example brought to our office illustrates this concern.

Mr. S suffered from a major depressive disorder, addictions, anxiety, social phobia, chronic pain and Hepatitis B and C. In mid-January 2006, Mr. S went to a ministry office to apply for income assistance and benefits under the Persons with Disabilities program. Mr. S provided a note from his doctor explaining that he had depression and has been unable to work for the last two years. At the time, Mr. S had almost no money and was nearly out of food. Four days later, Mr. S was assessed as having an emergency need and was provided with an expedited appointment to have his eligibility assessed.

At the eligibility interview, Mr. S told the EAW that he had an RRSP worth $2,900 that his bank would not allow him to withdraw. The EAW told Mr. S that because he had assets in excess of the allowable limit, he was not eligible for benefits. Mr. S was told that he needed to live off the RRSP until it ran out. As the bank had told Mr. S this was not possible, he asked the EAW to contact the bank directly, but the worker refused.

The EAW told Mr. S that in order to proceed with his application, he would need to provide several documents to the ministry. Despite Mr. S's medical conditions, the ministry did not inquire about his ability to provide these documents.

Between January 25 and January 27, 2006, Mr. S submitted the following documents to the ministry:

- *a hydro bill;*
- *his driver's licence;*
- *a notice of unpaid strata fees;*
- *confirmation of his monthly strata fees;*
- *his property tax notice;*
- *his RRSP statement;*
- *a letter regarding the amount he owed to the Canada Revenue Agency (CRA);*
- *a 2004 Notice of Assessment from the CRA;*
- *bank statements;*
- *a mortgage statement indicating the amount he owed; and*
- *a doctor's note indicating that he was unable to work due to depression.*

In addition to this list, the ministry asked Mr. S to submit the following documents:

- *landed immigrant or citizenship papers;*
- *an additional bank statement;*
- *his bank profile;*
- *his 2005 Notice of Assessment;*
- *a record of employment form; and*
- *a letter from his siblings.*

On February 5, Mr. S met with a worker and submitted the following documents:

- *his passport;*
- *a medical report;*
- *a record of employment form;*
- *additional bank statements;*
- *his banking information; and*
- *a form from his bank confirming that he could not access his RRSP.*

An EAW told him that he would be eligible for hardship benefits at the end of February 2006.

On February 26, Mr. S phoned the ministry and provided confirmation of his residency status from Citizenship and Immigration Canada. Mr. S was told that he would have to submit the following documents before he could receive any money:

- *a doctor's letter confirming why he had left his last job;*
- *his passport (despite previously submitting it); and*
- *confirmation from his bank of the reason he could not access his RRSP.*

By the end of February, Mr. S submitted the requested letter from his siblings. At that time, he was told that he would not receive any money until the ministry received all the requested documents. The following day, ministry staff told Mr. S he would have to provide documents regarding the disbursement of an estate and the remaining outstanding documents before he would receive any funds.

The ministry's repeated requests for more documents worsened Mr. S's anxiety and depression and led him to seek help from an advocate. With the advocate's assistance, Mr. S was able to provide the ministry with the following on March 1:

- *estate documents from his sister; and*
- *confirmation from the bank that he was not able to access his RRSP funds because the CRA would seize them upon release.*

The ministry then told Mr. S that no funds would be issued to him until he provided the ministry with the following:

- *his passport (which he had previously provided);*
- *his 2005 Notice of Assessment; and*
- *an application or receipt for a social insurance card, even though the ministry had previously told Mr. S that they would assist him with obtaining this document.*

On March 6, the ministry issued hardship assistance to Mr. S, which was meant to retroactively cover him from the end of January, as well as for March. At this point, Mr. S believed the ministry had all the information it needed from in order to continue issuing him hardship assistance and he expected to pick up another cheque at the end of March. On March 8, he submitted his 2005 Notice of Assessment to the ministry.

On March 29, the ministry informed Mr. S by letter (he received it April 4) that in order to receive his cheque, he had to submit more documents by April 7. As a result of intervention by Mr. S's advocate, for the first time the ministry made its request for documents in writing. It asked Mr. S to provide:

- *confirmation that his mortgage fees were not paid (previously submitted);*
- *confirmation that his strata fees were not paid (previously submitted);*
- *all his credit card bills for October and November;*
- *his utility bills for October and November (previously submitted);*
- *confirmation that his property taxes were not paid (previously submitted); and*
- *bank statements (previously submitted).*

On April 6, again due to intervention by his advocate, the ministry agreed to release Mr. S's cheque and to allow him until April 30 to provide the requested documents.

Throughout this process, Mr. S felt confused and overwhelmed. Because he lacked money, and due to the anxiety and depression he suffered, making the calls necessary to obtain the required documents was a significant challenge for him. Mr. S couldn't always remember what he needed to provide and he believes that having to deal with a rotation of ministry workers contributed to the inconsistent and varying demands for documents.

The story of Mr. S highlights how helpful it would be to clients if the ministry would give them at the beginning of the application process a simple and straightforward written list of the specific documents it requires and the deadlines for providing them.

The ministry informed us that since October 2008, applicants have been provided with a documentation checklist at the time of their first contact with the ministry. Applicants who contact the ministry by telephone are told that the checklist can be mailed to them, or picked up at a ministry office or a Service BC location in their community. According to the ministry, the date of the eligibility interview is written on the form and applicants are told to submit their documentation before the interview or to bring it with them to the interview. The ministry advised us that given the importance of this new practice, it will be reconfirming that it is being implemented by all staff in the next two months.

Helping Clients Obtain Documents

We asked the ministry to respond to the concern that requests for certain documentation may impose unfair burdens on applicants and clients. We also asked about the steps ministry staff may take to assist clients who have difficulty gathering the documents necessary to meet eligibility criteria. We asked the ministry whether there are documents that clients are required to submit in person to an office, and whether it can offer clients any flexibility in this respect.

With respect to the steps staff may take to assist clients with obtaining documents, the ministry said that, in keeping with section 10 of the *Employment and Assistance Act* and *Employment and Assistance for Persons with Disabilities Act*, it is an applicant's responsibility to provide all information and documents necessary to demonstrate eligibility for assistance. The ministry told us, however, that staff regularly do assist clients to obtain documents, by:

- paying for transportation (for example, bus tickets);
- contacting organizations (for example banks, employers, landlords, or insurance brokers), with the client's permission, and requesting that they send documents directly to the ministry;

- using current ministry tools and methods to obtain documents from agencies such as Citizenship and Immigration Canada, the CRA and ICBC;
- extending deadlines for submission of documents;
- providing a list with addresses and telephone numbers of agencies where the documents may be kept; and
- making referrals to community agencies or advocates that can help clients, especially if they have barriers, such as disabilities or language difficulties.

We asked the ministry to confirm whether the expectation that staff will assist clients who need help to obtain required documents is set out in policy. We also asked how the ministry ensures that staff are assisting clients, and whether the ministry provides any staff training in this area.

In response, the ministry informed us that its policy specifies that staff may assist applicants and clients to obtain documents when assistance is required. We reviewed the policy and note that it is unclear in which circumstances the ministry expects staff to assist clients in this way. The decision is left entirely to the discretion of staff.

Despite the ministry's policy, we continue to hear of examples in which clients who required assistance to obtain documents did not receive it. For applicants and clients, the consequences of not meeting the ministry's documentation requirements can be serious, including being denied assistance or long delays in the provision of assistance.

We believe that the ministry should develop a clear and publicly available policy that outlines the circumstances in which it expects staff to assist clients to obtain required documents. In order to ensure consistency and avoid the arbitrary exercise of discretion, the ministry should also train staff as to how and when this type of assistance should be provided. In addition, developing a policy would provide managers with a useful tool with which to assess the level of service provided by their staff.

Ombudsman Finding

20. The ministry does not have a clear policy or procedure that outlines how and when staff are expected to assist clients to obtain documents.

Ombudsman Recommendations

20(A). The ministry develop policy outlining how and when it expects staff to assist clients to obtain documents by October 1, 2009.

20(B). In order to ensure consistent implementation of ministry policy, the ministry provide training to staff as to when and how they should assist applicants and clients to obtain documents required by the ministry.

Documents and Forms that Must Be Submitted in Person

There are some situations in which the ministry requires clients to personally deliver documents to a ministry office. In many communities where there is no ministry office, the ministry has an agreement with Service BC or a "trusted third party" to receive and witness documents on the its behalf.[60] The ministry's rationale for requiring clients to submit documents in person is twofold: some forms require a witnessed signature and ministry or Service BC staff need to verify that photo identification matches the applicant. We note that according to the ministry, 12 of its 30 forms must be submitted in person. These include applications for assistance, release of personal information forms, and promise to pay agreements.

One of the complaints brought to our office illustrates how this requirement can affect clients:

Ms. R was 60 years old at the time she first complained to us in 2007. At the time, she had degenerative disk disease, osteoarthritis, suffered from chronic pain and had recently suffered a stroke that affected her mobility. She was receiving benefits under the Persons with Disabilities program, which were administered to her by the ministry's Victoria office. At the time of her complaint to us, Ms. R lived on one of the Gulf Islands. The island does not have buses and she did not own a car. The island also does not have a Service BC Centre or a government agent office.

In November 2006, the ministry required Ms. R to complete a financial review. She was able to do this by telephone in November, and was required to submit photo ID, rent receipts, telephone and utility bills, and bank statements. She was told that she had to go to the ministry's Victoria office to sign her re-application.

Because Ms. R was experiencing personal problems, she did not submit the required documents to the ministry until February. At that time, she sent a letter to the ministry stating that she had recently suffered a stroke, was in pain, and tired easily. She stated that she would need to walk or hitchhike to the ferry and that bus travel was painful. She asked to have the form sent to her instead. The ministry sent Ms. R the form and reminded her that it had to be witnessed by a ministry EAW or customer services worker, or a government agent. Since there was no government agent on the island, Ms. R sought help from an advocate. The advocate asked the ministry if Ms. R could submit a doctor's note about her difficulty with travel and whether the signing could be delayed. A ministry worker told the advocate that she would discuss this with a supervisor.

Ms. R said she had also asked ministry staff if the documents could be witnessed by a notary where she lived. However, according to Ms. R, the worker did not offer any flexibility and was not sympathetic to her requests. In the end, Ms. R did travel to Victoria to sign the document and received her cheque.

We question whether it is necessary or reasonable for the ministry to require that clients submit forms in person, especially given that other government forms (including passport applications and applications for enrolment in the medical services plan) can be submitted by mail.

There are communities where the ministry has no office, and no agreement with Service BC or a trusted third party. As a result, clients living in these rural areas may have to travel long distances, at their own expense or risk, in order to fulfil the ministry's requirement for in-person submission of documents. The ministry needs to clearly indicate what options are available to people in these communities.

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[60] See Appendix N for a map of ministry offices and communities where the ministry has agreements with Service BC or a trusted third party.

We asked whether the ministry would accept documents witnessed by a notary and whether it had policy regarding the witnessing of documents. The ministry said that it did not.

In the course of our investigation, we noted that Black's Law Dictionary defines "notarize" as follows:

> **Notarize**, *vb.* (Of a notary public) to attest to the authenticity of (a signature, mark, etc.)[61]

We assume the ministry's purpose for requiring clients to sign documents in person is to prevent fraud and forgery. The primary purpose of notarization is to protect against fraud and to verify, attest, authenticate and certify the validity of signed documents. Notarized documents are effective, valid, binding and used by federal and provincial government departments to verify the validity of legal documents such as powers of attorney, affidavits, birth, death and marriage records, incorporation papers and deeds.

As such, it would be unreasonable for the ministry not to accept notarized documents, especially when rural residents have no alternative but to travel long distances and incur costs in order to sign documents in person at a ministry office.

Signed Declarations

The ministry told us that when a client is having difficulty demonstrating that he or she meets the two-year independence requirement, it can accept a signed declaration from the applicant. An applicant can do this by submitting a signed and dated letter that provides the details of how he or she meets the financial independence requirement. The ministry explained that when verifying information or determining eligibility, it does not intend to impose unfair burdens on applicants or clients, or expose them to risks, especially if they are refugee claimants or convention refugees.

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[61] Bryan A. Garner, ed., *Black's Law Dictionary*, 8th ed (St. Paul: West, 2004), 1087.

Ombudsman Findings

21. It is unnecessary for the ministry to require clients to attend a ministry or trusted third party office so that the clients' signatures can be witnessed, when other reasonable alternatives exist.

22. The ministry's current arrangements with government agents and trusted third parties do not meet the needs of all rural residents.

Ombudsman Recommendations

21(A). The ministry review documents it requires applicants and clients to sign in person with the goal of reducing the number of forms that need to be submitted in person.

21(B). The ministry develop a policy allowing the acceptance of documents notarized in B.C., or other equally effective and reliable mechanisms, in lieu of requiring documents to be signed in person at a ministry, government agent or trusted third party office. The ministry develop this policy by March 31, 2010.

22. The ministry expand its current arrangements with trusted third parties or develop other mechanisms for communities where there is no ministry office and it does not have an agreement with Service BC.

Implementation of Previous Commitments

Since March 2006, when our office released its first report on complaints about income assistance, we have monitored the ministry's implementation of the changes it committed to make in response to our investigation. The ministry has in fact completed a number of those changes. However, some of the ministry's commitments remained unfulfilled, and as a result, we reopened our investigations into the following matters:

> **Implementation of Appeal Decisions:** Whether the ministry unreasonably delayed taking the steps required to initiate an amendment to the Regulation governing the implementation of appeal decisions.
>
> **Reasons for Ministry Decisions:** Whether the ministry communicates the reasons for its decisions in a fair and reasonable manner.
>
> **Accessibility of Ministry Procedures:** Whether the decision not to post its procedures on the ministry website is fair and consistent with the ministry's values of openness and transparency.
>
> **Monitoring:** Whether the ministry uses reasonable, evidence-based processes for assessing the effectiveness of its own programs, and compliance with legislation and policy.

The ministry's reconsideration and appeal processes

When a decision made by the ministry results in a refusal, discontinuance, or reduction of assistance or a supplement, a person can ask for a reconsideration of this decision. There are two stages to the reconsideration and appeal process. The first stage is reconsideration. Once a person is informed of the ministry's decision, he or she has 20 business days to submit a request for reconsideration. A reconsideration adjudicator will then review the person's request including information the person may wish to include that may not have been before the original decision-maker. When the adjudicator makes the reconsideration decision, it is a new and final decision and therefore the last opportunity a person has to submit new evidence. If the adjudicator upholds the original decision, a person can then request a hearing before the Employment and Assistance Appeal Tribunal. The tribunal is an arms-length body that decides whether the ministry reasonably applied its legislation and whether its decision was reasonably supported by the evidence submitted. A person who wants to appeal has to submit a notice form to the tribunal within seven business days from when he or she was informed of the reconsideration decision. The tribunal reviews reconsideration decisions, including information used to make the decisions, and considers supporting oral or written testimony from both the ministry and the person who is appealing. The tribunal will then either rescind or confirm the ministry's reconsideration decision, which ends the appeal process.

Implementation of Appeal Decisions

If the ministry denies a person's application for any benefit, he or she can dispute the decision through the reconsideration process and, if unsuccessful, then appeal to the Employment and Assistance Appeal Tribunal.

Although not specified in the regulations, the ministry's interpretation of the impact of a tribunal decision is that when the tribunal rescinds a decision, it becomes null, meaning that the ministry must make a new decision.

When the ministry makes a new decision after an appeal, the decision is implemented on one of two dates, depending on the type of benefit: either the first day of the next month, or immediately after the new decision is made. For example, if on February 14, 2008 the ministry made a new decision and determined that Ms. G was eligible for PPMB status, Ms. G would begin receiving PPMB benefits on March 1, 2008. Prior to December 2008, the following four types of decisions were implemented on the first day of the month after the decision date:

- date of eligibility for PPMB status;[62]
- eligibility for the provincial Senior's Supplement;[63]
- eligibility for general health supplements;[64] and
- date of eligibility for PWD status.[65]

In cases where the tribunal overturns a ministry decision in one of the above four categories, we questioned whether the client should be disadvantaged as a result of the original, and now rescinded, decision. From the client's perspective, the ministry should have made the correct decision when it had the opportunity to do so, at the reconsideration stage and therefore, the client should be entitled to receive benefits from that date. For example, in one case brought to us, a ministry client applied for designation as a person with disabilities on November 12, 2003. The ministry denied his application in late January 2004. The client submitted his request for reconsideration on February 8 and on March 15, the ministry's decision was upheld. On March 22, the client submitted his appeal to the Employment and Assistance Appeal Tribunal, which on May 10, rendered a decision in the client's favour. The ministry made a new decision in May, and provided the client with benefits as a Person with Disabilities as of June 1, 2004. However, the client believed that it was unfair that he did not receive benefits starting from the date of the reconsideration decision (March 15), which was the final ministry decision.

In November 2005, ombudsman staff met with senior ministry staff to discuss this issue, and the regulatory change that would be required to remedy the unfairness we had identified. By letter dated November 30, 2005, Ombudsman staff confirmed our office's understanding of the issues discussed at the meeting, as follows:

> We also discussed our concerns regarding the implementation of new ministry decisions when the Employment and Assistance Appeal Tribunal (Tribunal) has rescinded an earlier decision of the Ministry. I understood from the discussion that the Ministry recognized that the existing regulatory scheme might cause or contribute to unfairness in some cases and that the Ministry was working towards a regulatory amendment that would address those issues of fairness. If the necessary approvals were obtained, the Ministry was hopeful that the regulatory changes would be completed by March or April of 2006. In the interim the Ministry would follow the legal advice it has received and continue its existing practice with respect to implementation of decisions where a previous decision was rescinded on appeal. We discussed the possibility that the Ministry might identify a date from which any changes caused by the regulatory amendments would be effective whether or not the

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[62] *Employment and Assistance Regulation*, B.C. Reg. 263/2002, s. 26(3).

[63] *Employment and Assistance Regulation*, B.C. Reg. 263/2002, s. 62(2).

[64] *Employment and Assistance Regulation*, B.C. Reg. 263/2002, s. 67(3)(b).

[65] *Employment and Assistance for Persons with Disabilities Regulation*, B.C. Reg. 265/2002, s. 23(1)(a).

> amendments were in force. Your preference was to proceed with the regulatory changes as quickly as possible; however, I understood that you would make enquiries to determine whether a retroactive effective date was possible if it took longer than anticipated to amend the applicable regulations.

Subsequently, on January 16, 2006, ministry staff told us that the ministry did not have the authority to enact the Regulation retroactively.

In our March 2006 report, the Ombudsman stated:

> In response to our concern, the Ministry has undertaken a broad review regarding current policy and regulatory requirements about when it can implement a new decision. The Ministry advised that the issue is extremely complex and therefore resolution may take some time. I appreciate the Ministry's willingness to consider this matter. However, from a fairness perspective the regulation appears to create a disadvantage to an applicant and a benefit to the Ministry if there are delays in making a decision. That means that the regulation itself may create unfairness. The Ministry has agreed to consider changing the regulation that applies and I look forward to confirmation that the regulations have been revised to remedy the matter.

Over a year later, as the regulations did not appear to have been amended, Ombudsman staff met again with senior ministry staff for an update. At that time, ministry staff advised that they were seeking Treasury Board approval of the ministry's budget submission. We requested written confirmation of this.

The ministry responded on June 18, 2007 and indicated that while the ministry was supportive of a regulatory change, cabinet approval would be required. We asked the ministry to provide us with a copy of the budget submission it had mentioned to us in our meeting.

On July 24, 2007, the ministry responded:

> Throughout this process, the ministry has remained committed to dealing with the fairness issue of the delay between reconsideration and appeal. Ministry Executive reviewed the issue again in May of this year with a view to requesting additional funds for a regulation change. However, since cost estimates are now significantly less due to dramatically reduced adjudication times, Ministry Executive decided that a budget request was not required and that we could propose a regulation change at this time. In view of this decision, no budget submission was prepared.

In August 2007, the ministry informed us by letter that the regulatory amendment was scheduled to be proposed in the fall of that year. This did not occur, however, and in January 2008, ministry staff wrote to our office again to say they were "targeting" early February, because the changes were more complicated than they had originally anticipated. February passed without the regulatory change being made, and in April, the ministry informed us that the target date had been moved to July. After further delays, the ministry informed us that the new proposed effective date for the amendment was November 1, 2008, however that was subsequently moved to December 2, 2008. On December 2, 2008 we were informed that the regulations were amended.

Analysis

The ministry acknowledged in November 2005 that the *Employment and Assistance Regulation* and the *Employment and Assistance for Persons with Disabilities Regulation* resulted in unfairness, and made a commitment at that time to work towards a regulatory amendment that would address those issues. At the time the ministry told us that it hoped to have the amendments in place by March or April 2006. Despite this, it took until December 2, 2008 — almost three years — for the regulations to be amended.

Given how long it took to amend the regulations, it is important to consider how this delay has affected both the ministry and its clients. To that end, we asked the ministry to provide us with a list starting in January 2006 (when the ministry acknowledged the unfair consequences of the regulations) and August 20, 2008 of all the decisions it made on PPMB and PWD applications that were later overturned by the Employment and Assistance Appeal Tribunal. The list the ministry provided shows that in this time a total of 410 clients were adversely affected by the delay.[66] This does not include people who applied for either the provincial Senior's Supplement or general health supplements, who may also have been adversely affected.

Delays in receiving the additional benefits for those eligible for PWD or PPMB status can have significant negative effects on the people involved. Consider, for example, a hypothetical but typical case: Julie, who is a single client currently receiving assistance as an "employable" person, applies for the PWD designation. The ministry decides that Julie does not meet the eligibility criteria and denies her application. Julie then submits a request for reconsideration of this decision. The ministry's decision is upheld on reconsideration, so Julie continues receiving assistance at the basic rate. This decision is made on September 25. Julie appeals the decision to the Employment and Assistance Appeal Tribunal, within the time limit of seven business days. After hearing all the evidence that was before the reconsideration adjudicator, the tribunal rescinds the ministry's decision. The ministry makes a new decision, finding that Julie is eligible for designation as a PWD. This decision is made on November 15th. However, due to the ministry's interpretation of the Regulation, even though the tribunal has decided the client should have been designated a PWD on September 25th, the change will not come into effect until December 1st.

The difference this makes to Julie's income and quality of life is not insignificant. While the basic rate for single employable clients is $610 per month, clients who have PWD status receive $906.42 per month. Those with PWD status are also eligible for a monthly earning's exemption of $500, and additional benefits (such as health supplements and eligibility for the bus pass program). Because the designation does not take effect for two months following the reconsideration decision, Julie loses almost $600 in monthly assistance, potentially up to $1,000 in exempted income, as well as other unquantifiable benefits. This creates a disadvantage to Julie.

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[66] We do not have a number for those affected between August 20, 2008 and December 2, 2008, which is when the regulations were amended.

Ombudsman Finding

23. The ministry unreasonably delayed taking steps to initiate a regulatory amendment that would remedy the acknowledged unfairness that results from delays in implementing appealed decisions. This delay is inconsistent with the ministry's stated core value of ensuring equity and fairness for clients.

Ombudsman Recommendation

23. The ministry consider mechanisms that would allow it to compensate affected people for their loss of quantifiable additional benefits between April 30, 2006 and December 2, 2008.

Reasons for Ministry Decisions

Providing reasons for a decision is one of the fundamental principles of administrative fairness. Reasons allow the people affected by a decision to understand how and why a decision was made. Knowing the reasons for a decision also helps people decide whether there may be grounds to dispute it. Reasons reduce the appearance of arbitrariness and promote public confidence in the fairness of administrative processes. While reasons can be provided either orally or in writing, the above goals are best achieved by providing written reasons.

Some decisions of the ministry are communicated orally while others are put in writing. Decisions about eligibility for income assistance, hardship assistance and supplements are communicated orally either in person or on the phone. Decisions made at the Health Assistance Branch, including those on applications for Persons with Disabilities (PWD) designations and most health supplements, are made in writing. Some decisions made by regional reconsideration adjudicators, including evaluations of eligibility for PPMB status, are communicated in writing. All reconsideration decisions are communicated in writing.

In the course of our investigation we considered concerns brought to us about how the ministry was not consistently providing detailed reasons for decisions or complete disclosure of records to clients who requested reconsideration. After consultation with our office, the ministry reviewed its practices and identified inconsistencies in how its staff provided information and reasons for decisions. In July 2005, the ministry directed its staff to follow revised policies and practices on the communication of decisions including:

- communicating and recording substantive reasons for denial, and providing related information by:
    - referencing in all decisions all substantive reasons for denial and the availability of related information; and
    - automatically including copies of all information used in making the decision when a request for reconsideration is made.

In January 2007, the ministry developed a checklist for staff to help them follow these policies in their decision-making. The checklist is available on the Online Resource section of the ministry's website. In August 2007, the ministry also provided training to staff on these revised policies and practices.

What Are Substantive Reasons?

In the training that was available to ministry staff in August 2007, the ministry refers to the judgement of Justice Edgar Sexton of the Federal Court of Appeal, Via Rail Canada Inc. v. Canada (Canadian Transportation Agency), 2006 FCA 45, [2006] F.C.J. No. 159; 265 D.L.R. (4th) 94 as follows:

> *The obligation to provide adequate reasons is not satisfied by merely reciting the submissions and evidence…and stating a conclusion. Rather, the decision maker must set out its findings of fact and the principal evidence upon which those findings were based. The reasons must address the major points in issue. The reasoning process followed by the decision maker must be set out and must reflect consideration of the main relevant factors.*

Ministry procedure describes "substantive denial reasons" as:

> *A substantive denial reason is a complete response that answers the following: what was requested, what is denied, what legislative criteria (criterion) were (was) not met and why not? The reasons must reference the specific legislated eligibility criteria (criterion) that are (is) not met and specify the circumstances/facts the client presented, or failed to present, that the ministry assessed and determined were the reason the person did not meet the legislated criteria.*

Ministry staff are required to provide substantive reasons for their decisions. The ministry requires staff to record their decisions, the substantive reasons for them, the date they were made, and the date the client was informed of the availability of related information (including information submitted by the client and obtained by staff). Staff must also record that they informed the client of his or her right to request reconsideration.

Because the ministry does not require all decisions to be put in writing, we asked the ministry how it ensures that reasons provided orally and in person are "substantive." The ministry told us that its procedure requires that substantive reasons for denials be provided and recorded on its Management Information System (MIS). In addition, the ministry noted that oral decisions are subject to review by office supervisors, and by subsequent decision-makers through reconsideration and appeal.

However, our office continues to hear of examples in which clients are not provided with substantive reasons for denial when decisions are communicated to them orally. We are concerned that the ministry does not have adequate procedures in place to monitor compliance with these important procedural requirements.

Why Reasons Should Be in Writing

Whenever a person's legal rights may be affected by officials exercising legal decision-making authority, there is a requirement that the decision will be made in accordance with the principles of procedural fairness and natural justice. What constitutes fairness varies according to circumstances and depends on factors such as the nature of the decision made, the relationship between the individual and the administrative body and the effect of a decision on a person's rights. The following excerpt from ministry training materials addresses each of these factors in the context of the procedural rights to which ministry clients should be entitled:

> The first factor asks what the nature of the decision is —whether it is a general or legislative decision, or one that concerns a specific individual. The more generally applicable a decision is, the fewer procedural rights individuals have. When the decision is about a particular person, as is the case when ministry assistance is denied, discontinued or reduced, that person is entitled to more procedures.
>
> The second factor asks what is at stake in the decision. When a person is applying for something that would benefit them, but is not necessary — such as a business licence, for example — they are entitled to fewer procedures than when they are applying for something that is more essential. When a person applies for ministry assistance, they are applying for something that is more essential. When a person applies for ministry assistance, they are applying for something that is of vital interest — the money they need for shelter, food or health care. As a result, ministry clients have significant procedural rights.
>
> The third factor asks whether there is a significant relative disadvantage. Generally speaking, individuals are far less well equipped than administrative bodies to argue their position on a particular issue. In the case of ministry decisions, this relative disadvantage is far more significant. The ministry has tremendous financial resources, access to legal counsel, and expertise with respect to ministry decisions. Clients of the ministry generally lack financial resources, are unlikely to have legal counsel, and are less familiar with ministry legislation and policy than ministry staff. They may lack education or suffer from mental or physical impairment that imposes further difficulty on them in requesting and understanding decisions that affect them. As a result, far more procedures are necessary in order to counterbalance, to some extent, the relative disadvantage experienced by ministry clients.
>
> Finally, the existence of a right to appeal requires greater procedures. When a person has no right to reconsideration or appeal, procedures such as disclosure and reasons are less important since there is no body that reviews the decision and no decision for the individual to make regarding whether to pursue a right of appeal. When a person has a right to reconsideration or appeal, however — as in the ministry decision-making process — it is far more important that the person be provided with adequate reasons for the decision, disclosure of information and information about their reconsideration and appeal rights. This is essential not only so that the individual can make informed decisions about how to respond to a decision that affects them, but also so that a review of the original decision will be based on clear and complete information about how the decision was reached.[67]

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[67] The excerpt is from the ministry's training presentation (dated July 19, 2007), which is intended to clarify and reinforce its online course in Reconsiderations and Appeals.

The ministry acknowledges that its clients are entitled to "significant procedural rights." However, with respect to reasons for decisions, many important ministry decisions, including eligibility for income assistance, continue to be communicated orally either over the phone or in person. Written reasons are provided more often by the Health Assistance Branch, the Health Reconsideration Branch and regional offices than by local income assistance offices. The practice of providing certain decisions in writing versus orally appears to be based more on the local practices of the individual offices that make the decisions, rather than on the nature of the decision.

We believe the ministry should put all reviewable decisions in writing and provide copies to applicants. We were pleased to learn that ministry staff who make oral decisions about eligibility for benefits are expected to clearly record the decision, along with its full and substantive reasons, on the ministry's database. As ministry staff are already recording full and substantive reasons for decisions on the database, it should be feasible for the ministry to provide printouts of these reasons to clients.

Ombudsman Finding

24. **By only communicating the reasons for reviewable decisions orally, the ministry is failing to provide appropriate procedural rights to applicants and clients.**

Ombudsman Recommendation

24. **Ministry staff offer to provide clients with written reasons for all reviewable decisions, including eligibility for income assistance by October 1, 2009.**

Accessibility of Ministry Procedures

The ministry launched the public version of its Online Resource (OLR) website on March 27, 2006. At that time, it provided public access to ministry policies but not to ministry procedures. Before the launch of the public OLR, these procedures were available on the ministry's website. After the launch, they were only available from the ministry upon request.

During our previous investigation, ministry staff told us that they would consider including their staff procedures on the public OLR. In June 2007, we asked ministry staff for an update on this project, and they responded as follows:

> …staff procedures are not provided on the [ministry's publicly accessible website] to make the website user-friendly, simple and easily accessible to the general public. Procedures include detailed steps for staff such as which forms to complete and how to record information on the Management Information System (MIS). Including such information on the OLR would clutter the resource with information that is of little or no interest to the general public and would make navigation more difficult for clients.

In August 2008, we informed the ministry by letter that we were not satisfied with their responses to these questions, and that we were reopening this aspect of our investigation. Ministry staff responded to us in mid-November, and informed us that in an effort to promote openness and transparency, they had made their procedures available to the public through the OLR as of September 2008.

We are pleased that the ministry took these steps. We believe that clients, advocates, lawyers and the general public will benefit from having access to the ministry's staff procedures, because they explain the steps staff are expected to follow when making decisions. As well, the ministry's procedures are considerably more detailed and lengthy than its policies. For example, the ministry's procedures related to the PPMB program go on for 20 pages, whereas the policy section on PPMB in the public version of the OLR is only three pages long. The PPMB procedures contain information that is not in ministry policy and that should be readily available to the public. We also believed that the ministry would benefit from providing the public with the opportunity to better understand its procedures.

Regardless of the technical obstacles that may or may not have existed, we believe that making its procedures easily available to the public through its OLR brings the ministry into greater alignment with its core values of transparency and openness. As a result of the inclusion of the ministry procedures on the OLR, the Ombudsman decided not to make any formal findings or recommendations on this issue.

Monitoring

In August 2008, we informed the ministry that we were expanding our investigation in order to consider how it monitors the effectiveness of its programs and the degree to which its staff are in compliance with the ministry's policies. In response, the ministry provided us with an example of how, in 2008, it had conducted a file review to consider the reconsideration and appeal program's compliance with policy, regulatory timelines and the principles of fairness. The review consisted of a random sample of 260 files from August 1, 2006 to July 31, 2007.

While we are encouraged by this recent example of the ministry using file reviews to determine its staff's compliance with policies, there have been other examples in which the ministry's methods have been much less reliable and rigorous. The following examples illustrate the importance of using evidence-based processes for assessing the effectiveness of ministry programs and compliance with policy and legislation.

The Ministry's Compliance Review of its Reconsideration and Appeal Processes

In March 2007, the ministry informed us that it had conducted a compliance review of its reconsideration and appeal processes in September 2006. The ministry concluded from this review that its staff were complying with reconsideration and appeal policies and procedures 95.6 per cent of the time.

However, we continued to be told of examples in which clients were not provided with full and substantive reasons for decisions, not told how to access information on which decisions were based, and not able to obtain written decisions despite requesting them from the ministry.

In light of the discrepancy between the ministry's information and our own, we asked the ministry to provide us with the details of its review process, including who participated and how the results were calculated.

The ministry told us that it conducted the review by asking selected staff (usually managers) questions, including:

> Is your Region consistently ensuring that clients are provided with R&A (Reconsideration and Appeal) brochure at time of application?
>
> Is your Region consistently ensuring that all clients are provided with substantive reasons when any decision to deny, discontinue or reduce assistance is made?
>
> Is your Region consistently ensuring that clients are made aware of the availability of any information that was used in making an initial denial decision at the time clients are informed of that decision?[68]

Staff answered yes or no to the questions in the survey. The ministry told us that staff who responded "yes" to a question were considered to be 100 per cent in compliance. The ministry told us that where compliance was less than 100 per cent, the specific number of offices that were or were not in compliance was noted.

We believe this review process was insufficient in the following ways:

- Managers were not asked to determine actual compliance with policy, or to document it in any way. They were asked only for their opinions as to whether their staff were consistently following a policy.
- The ministry did not define what it meant by "consistently follow policy." This phrase could be subject to widely different interpretations. For example some people might believe 65 per cent of the time is consistent, while others believe it to be 80 per cent.
- If a manager answered that staff did consistently comply with policy, the ministry scored the office as 100 per cent compliant.
- The results as presented create the perception that the ministry measured actual compliance with policy in a statistically valid and objective manner.

The ministry does not have reliable data on which to base its conclusion that its staff's overall rate of compliance with its reconsideration and appeal policies is 95.6 per cent. A more rigorous way to determine the rate of compliance would be to review client files and track how often staff actually complied with policy. The ministry did not do this. We therefore believe that the ministry's methodology was inadequate to support its conclusions.

Emergency Needs Assessments Questionnaire

In November 2006, the acting assistant deputy minister stated that "In 2005 the actual time between an applicant being found to have an emergency need and that person being given an interview was within 24 hours." We asked the ministry to explain what steps it took to confirm that this was the case.

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[68] The staff who were asked these questions were policy and program implementation managers, all regional reconsideration adjudicators and supervisors at the Health Assistance and Health Reconsideration branches.

The ministry explained that managers of field services for each region were asked to complete a questionnaire for each Employment Assistance Centre that they managed, and that its conclusions were based on their responses. The ministry told us that the results of the questionnaires were compiled and reported to the ministry's executive.

We reviewed a copy of the questionnaire, which included the following questions about the timing of emergency needs assessments (ENAs):

> What is the average length of time for an enquirer to get an ENA (the time the applicant requests an ENA to when they receive an ENA)?
>
> What is the average length of time for an enquirer to get an expedited application if they are approved through the ENA (the time the applicant is approved for an expedited application to when that application is held)?

Managers were not expected to review files prior to answering these questions. Without doing so, it's unlikely that reliable conclusions about the actual times that elapsed between the expression of an emergency need and the ministry's assessment could be made. We do not think the ministry's methods were precise or thorough enough to support the conclusion it drew from responses to the questionnaire.

Audit of Residency Verifications

Until late in the summer of 2005, ministry staff used the term "home visit" broadly. A home visit could mean a pre-arranged appointment with a client who was unable to go to the ministry's office, and which was meant to make the ministry's services and benefits more accessible. However, the term could also be applied to a visit that a ministry verification officer made without notice in order to determine the accuracy of the home address a client had provided.

During our previous investigation, we considered whether the ministry was exceeding its authority and contravening clients' privacy rights by entering their homes in order to verify information. As stated in our March 2006 report, the ministry responded to these concerns in a number of ways. One of these was the revision of its policy regarding home visits so that it clearly defined the terms "home visit" and "residency verification." The clarified policy, which became effective on August 30, 2005, states that residency verification does not permit a ministry employee to enter a client's home, and that home visits are conducted only for the purpose of providing assistance to the client.

To assess the effectiveness of the new policy, the ministry agreed to conduct an audit or other form of review by March 2007 (one year after our March 2006 report).

In June 2007 we asked the ministry for the results of this audit or review. In response, the ministry informed us that summary reports on home visits are generated each month for each office and region, and that these reports indicate the number and type of visits done and who visited. The ministry indicated that supervisors review these monthly reports to monitor compliance with policy and procedure.

Rather than conducting an audit or review, the ministry provided us with a report that compares the number and type of visits recorded in 2004, 2005, 2006 and 2007. According to the ministry, the report indicates that the number of residency verifications has decreased during this period and that they are now only conducted by trained investigative officers in accordance with policy and procedure.

Staff who conduct home visits or residency verifications are required to put a code in their computer files. While policy provides that staff must not enter the home on the verification visit, the fact that staff enter a particular code in the ministry's computer system does not necessarily mean that they did not enter the client's home. It is unfortunate that the ministry did not follow through on its commitment to conduct an audit or review of its practices regarding home visits and residency verifications, as we believe that this is the best way to accurately measure its staff's compliance with policy.

Analysis

In the examples above, the ministry did not use reliable, evidence-based processes to assess the effectiveness of its programs or its staff's compliance with policy. We found that the ministry's methodology was inadequate to support the conclusions it made, some of which were reported publicly.

Ombudsman Finding

25. In three situations we reviewed, the ministry did not use reliable and rigorous methods to assess compliance with legislation, regulation and policy.

Ombudsman Recommendation

25. The ministry adopt the use of file reviews and/or audits as its preferred method of evaluating compliance with legislation and ministry policies. The ministry make the results public and include a statement of methodology with the results.

Ombudsman Findings

Applying for Income Assistance

1. The ministry's income assistance application process is unduly complex and not designed to meet the needs of the people who are applying for assistance.

2. The ministry does not offer applicants a clear written explanation of the income assistance application process at the time of their initial interview.

3. The ministry's income assistance application process can discourage people who are in need from obtaining the assistance available to them.

4. It is unreasonable for the ministry to require applicants who can show that they have already actively sought work for the three weeks prior to applying for income assistance to conduct a further three-week work search before assessing their eligibility for assistance.

5. It is unreasonable for the ministry to require single parents with children under the age of three to conduct a three-week work search before assessing their eligibility for assistance, since if the ministry determines they are eligible, they will no longer be expected to look for work.

6. The ministry does not consistently provide applicants who are exempt from the three-week work search requirement with an eligibility appointment within five business days.

7. The ministry is not consistently providing eligibility interviews to applicants with immediate needs within one business day.

8. The ministry's employment and assistance workers are not consistent in their assessments of what constitutes immediate needs.

9. In some cases, decisions made to deny assistance to a person in need on the basis of her or his failure to meet the two-year independence requirement are unfair and unreasonable.

10. The ministry does not accurately track the number of income assistance applications it receives, approves and denies.

11(A). The ministry does not track what happens to people who discontinue income assistance applications.

11(B). The ministry lacks evidence to support its conclusion that the reduction in the income assistance caseload is a result of people leaving assistance for employment.

Persons with Persistent Multiple Barriers to Employment (PPMB)

12. In certain cases, the ministry's decision to deny people who it assesses as having significant multiple barriers to employment the opportunity to apply for PPMB status at the same time that they apply for income assistance is unfair and unreasonable because this decision delays the provision of benefits to some applicants who should be entitled to them.

13. The form that the ministry requires applicants for PPMB status to have their doctors complete is inadequate because:
    - it does not provide adequate information to doctors about the PPMB program and document requirements;
    - it does not provide an opportunity for doctors to include information about whether a person is capable of working, even though the ministry considers this information relevant at other stages of the application process; and
    - it requests irrelevant information about the length of time a doctor has been seeing a patient.
14. The ministry is not consistently applying its definitions of "seriously impedes" and "precludes" in determining eligibility for PPMB.
15. The employability screen as used by the ministry is not a consistently reliable tool to determine the extent to which barriers to employment exist.
16. The ministry does not provide adequate information to income assistance clients about the PPMB program, including about how a client can be assessed.
17. The ministry failed to ensure that the PPMB program was reviewed in a timely manner after acknowledging that it could not explain the reduction in its PPMB caseload.

Medical and Other Documentation Requirements

18. It is unreasonable and unfair to require ministry clients to repeatedly reconfirm their chronic or ongoing medical conditions in order to continue receiving health-related supplements.
19. The ministry has not developed a policy that reflects its new practice expectations for requiring clients to submit documents that they have already provided to the ministry and the ministry's expectation that the documents be returned to the client.
20. The ministry does not have a clear policy or procedure that outlines how and when staff are expected to assist clients to obtain documents.
21. It is unnecessary for the ministry to require clients to attend a ministry or trusted third party office so that the clients' signatures can be witnessed, when other reasonable alternatives exist.
22. The ministry's current arrangements with government agents and trusted third parties do not meet the needs of all rural residents.

Ombudsman Findings

Implementation of Previous Commitments

23. The ministry unreasonably delayed taking steps to initiate a regulatory amendment that would remedy the acknowledged unfairness that results from delays in implementing appealed decisions. This delay is inconsistent with the ministry's stated core value of ensuring equity and fairness for clients.

24. By only communicating the reasons for reviewable decisions orally, the ministry is failing to provide appropriate procedural rights to applicants and clients.

25. In three situations we reviewed, the ministry did not use reliable and rigorous methods to assess compliance with legislation, regulation and policy.

Ombudsman Recommendations

Applying for Income Assistance

1. The ministry continue to simplify the process of applying for income assistance with a view to minimizing challenges for applicants. The ministry do this on an ongoing basis and annually report the results to the public.

2. The ministry enhance the material already provided to income assistance applicants at the time of their initial application. The ministry include a clear written explanation of the steps involved in applying for income assistance in the new material. The ministry complete these steps by October 1, 2009.

3. The ministry increase the accessibility of its application process by:
    - directing its staff not to provide non-reviewable preliminary opinions of clients' eligibility;
    - minimizing the number of times staff ask clients if they wish to proceed with the application process. The ministry precede any question of this nature with confirmation that the individual has a right to continue the application process;
    - establishing in policy that if clients do not contact the ministry in the requested timeframe that these files will become "No Case Mades" only after 90 days and that these files can be reactivated at any point as long as the clients meet the ministry's requirements.

    The ministry complete these steps by July 1, 2009.

4. The ministry take the necessary steps to include an exemption from the three-week work search requirement in the *Employment and Assistance Regulation* for applicants who demonstrate that a work search to the ministry's standards was conducted in the three weeks immediately prior to their application.

5. The ministry take the necessary steps to include an exemption from the three-week work search requirement in the *Employment and Assistance Regulation* for single parents with children under the age of three.

6. The ministry continuously improve compliance with its service standard that applicants who are exempt from the three-week work search requirement are provided with an eligibility appointment within five business days.

7. The ministry continuously improve compliance in providing eligibility appointments within one business day to individuals with immediate needs.

8. To ensure compliance with ministry policy on immediate needs assessments and increase consistency in how staff conduct these assessments, the ministry:
    - regularly provide training for staff;
    - regularly audit compliance; and
    - report audit outcomes publicly on an annual basis.

9. The ministry take the necessary steps to remedy the potential for unfairness caused by the two-year financial independence requirement by either seeking to add further exemptions or providing legal authority for supervisors to waive the requirement by March 31, 2010.

10. The ministry track the number of income assistance applications it receives. For each application, the ministry track whether it is approved, abandoned or denied. The ministry have this process in place by July 1, 2009.

11. The ministry use Statistics Canada LAD data to track whether people who discontinue income assistance applications move on to employment or educational programs within two months of discontinuing their applications and report this data publicly by September 1, 2010. The ministry develop reliable and effective mechanisms to continue to track this and report the results publicly on an annual basis, beginning in 2011.

Persons with Persistent Multiple Barriers to Employment (PPMB)

12. The ministry take the necessary steps to include an exemption in the *Employment and Assistance Regulation* from the requirement to be on income assistance for 12 of the previous 15 months for people who, at the time they apply for income assistance, have barriers for which there is no program to remedy.

13. The ministry revise the PPMB medical report form so that it:
    - provides information to doctors about the PPMB program and documentation requirements;
    - provides an opportunity for doctors to include information on how the client's medical condition affects his or her ability to work; and
    - removes the request for information about the length of time a doctor has been seeing a patient.

14. The ministry conduct a file review to determine compliance with the ministry's definitions of "seriously impedes" and "precludes" when staff determine eligibility for PPMB and report the findings publicly.

15. The ministry conduct a detailed review of the effectiveness of the employability screen in producing a useful measure of a person's ability to work and publicly report the results of this review. The ministry take these steps by December 1, 2009.

16(A). The ministry provide clear written information about the PPMB program to all people applying for income assistance by March 31, 2010.

16(B). The ministry create a form that clients can use to apply for PPMB status themselves by March 31, 2010.

17. The ministry complete a review of the PPMB program to determine the reasons for the reduction in its caseload since 2003/2004 and report the results publicly by October 1, 2009.

Medical and Other Documentation Requirements

18. The ministry review its policies and procedures on an ongoing basis to identify and eliminate any circumstances in which clients with chronic or ongoing medical conditions are required to reconfirm these conditions to continue to receive health supplements.

19. The ministry develop a clear policy directive that requires staff to review the documents that are on file before requiring clients to submit new documents and to return the original versions to clients. The ministry develop this policy directive by September 1, 2009.

20(A). The ministry develop policy outlining how and when it expects staff to assist clients to obtain documents by October 1, 2009.

20(B). In order to ensure consistent implementation of ministry policy, the ministry provide training to staff as to when and how they should assist applicants and clients to obtain documents required by the ministry.

21(A). The ministry review documents it requires applicants and clients to sign in person with the goal of reducing the number of forms that need to be submitted in person.

21(B). The ministry develop a policy allowing the acceptance of documents notarized in B.C., or other equally effective and reliable mechanisms, in lieu of requiring documents to be signed in person at a ministry, government agent or trusted third party office. The ministry develop this policy by March 31, 2010.

22. The ministry expand its current arrangements with trusted third parties or develop other mechanisms for communities where there is no ministry office and it does not have an agreement with Service BC.

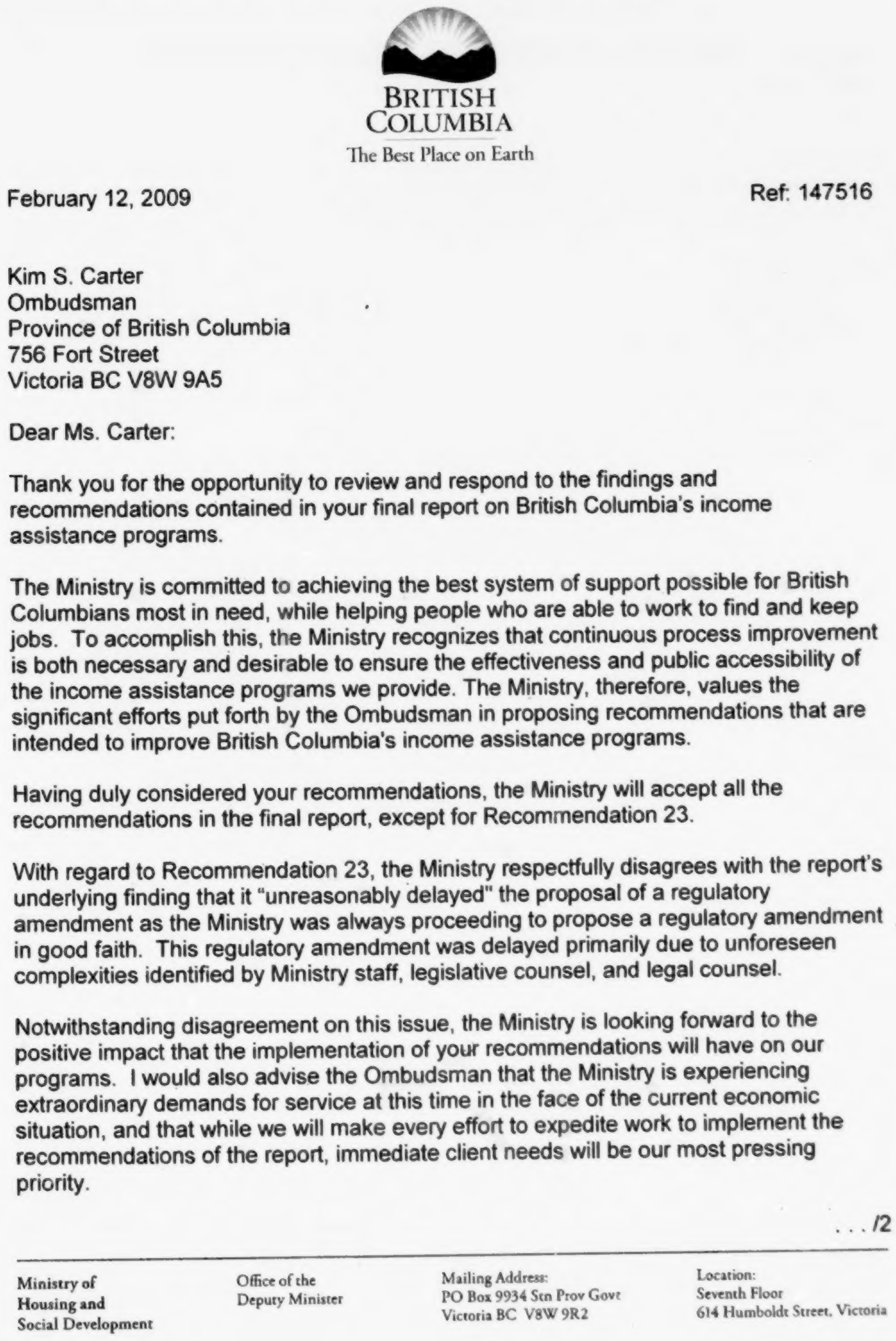
Implementation of Previous Commitments

23. The ministry consider mechanisms that would allow it to compensate affected people for their loss of quantifiable additional benefits between April 30, 2006 and December 2, 2008.

24. Ministry staff offer to provide clients with written reasons for all reviewable decisions, including eligibility for income assistance by October 1, 2009.

25. The ministry adopt the use of file reviews and/or audits as its preferred method of evaluating compliance with legislation and ministry policies. The ministry make the results public and include a statement of methodology with the results.

Appendix A



BRITISH
COLUMBIA
The Best Place on Earth

February 12, 2009 Ref: 147516

Kim S. Carter
Ombudsman
Province of British Columbia
756 Fort Street
Victoria BC V8W 9A5

Dear Ms. Carter:

Thank you for the opportunity to review and respond to the findings and recommendations contained in your final report on British Columbia's income assistance programs.

The Ministry is committed to achieving the best system of support possible for British Columbians most in need, while helping people who are able to work to find and keep jobs. To accomplish this, the Ministry recognizes that continuous process improvement is both necessary and desirable to ensure the effectiveness and public accessibility of the income assistance programs we provide. The Ministry, therefore, values the significant efforts put forth by the Ombudsman in proposing recommendations that are intended to improve British Columbia's income assistance programs.

Having duly considered your recommendations, the Ministry will accept all the recommendations in the final report, except for Recommendation 23.

With regard to Recommendation 23, the Ministry respectfully disagrees with the report's underlying finding that it "unreasonably delayed" the proposal of a regulatory amendment as the Ministry was always proceeding to propose a regulatory amendment in good faith. This regulatory amendment was delayed primarily due to unforeseen complexities identified by Ministry staff, legislative counsel, and legal counsel.

Notwithstanding disagreement on this issue, the Ministry is looking forward to the positive impact that the implementation of your recommendations will have on our programs. I would also advise the Ombudsman that the Ministry is experiencing extraordinary demands for service at this time in the face of the current economic situation, and that while we will make every effort to expedite work to implement the recommendations of the report, immediate client needs will be our most pressing priority.

. . . /2

Ministry of
Housing and
Social Development

Office of the
Deputy Minister

Mailing Address:
PO Box 9934 Stn Prov Govt
Victoria BC V8W 9R2

Location:
Seventh Floor
614 Humboldt Street, Victoria

Page 2
Kim Carter

On behalf of the Ministry, I firmly believe that your efforts to identify opportunities for improvement in concert with the Ministry's own efforts will help ensure that assistance is provided to British Columbians most in need when they need it.

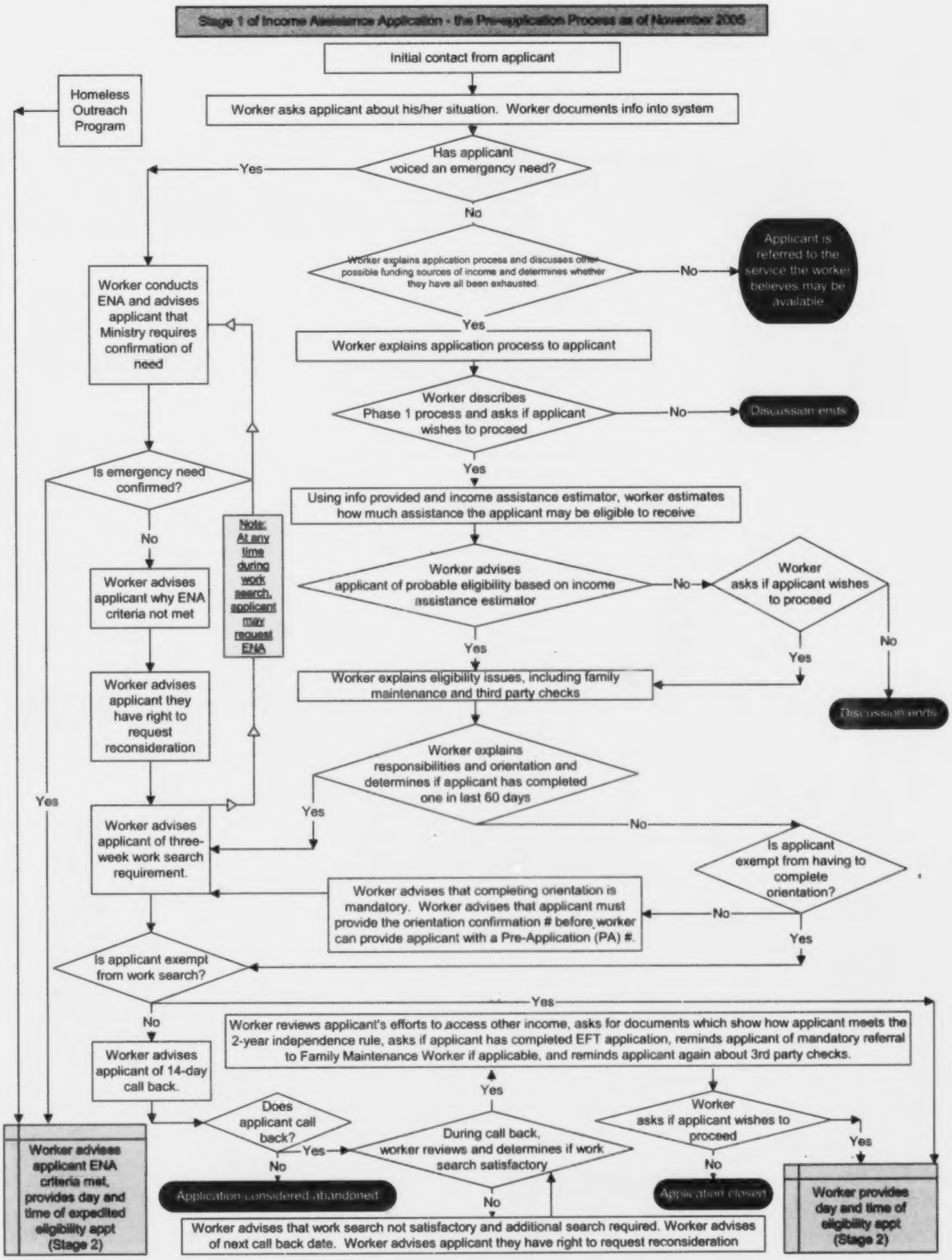
Sincerely,

Sharon Moysey CMacDonald / Feb 27/09

for Cairine MacDonald
Deputy Minister

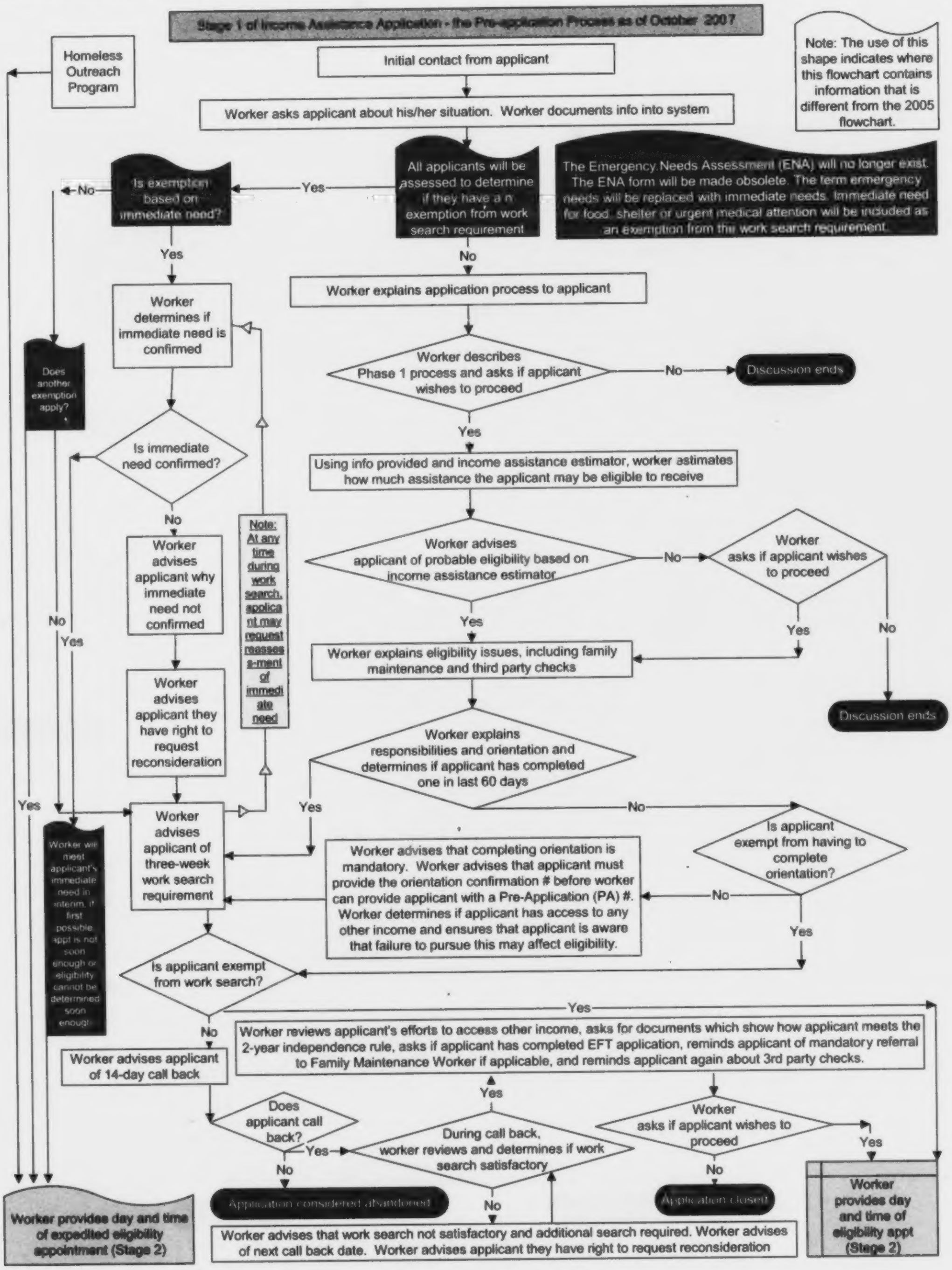
Appendix B

Income Assistance Application Process before October 29, 2007


Stage 1 of Income Assistance Application - the Pre-application Process as of November 2005
Initial contact from applicant
Homeless Outreach Program
Worker asks applicant about his/her situation. Worker documents info into system
Has applicant voiced an emergency need?
Yes
No
Worker explains application process and discusses other possible funding sources of income and determines whether they have all been exhausted.
No
Applicant is referred to the service the worker believes may be available
Yes
Worker conducts ENA and advises applicant that Ministry requires confirmation of need
Worker explains application process to applicant
Worker describes Phase 1 process and asks if applicant wishes to proceed
No
Discussion ends
Yes
Is emergency need confirmed?
Using info provided and income assistance estimator, worker estimates how much assistance the applicant may be eligible to receive
No
Note: At any time during work search, applicant may request ENA
Worker advises applicant why ENA criteria not met
Worker advises applicant of probable eligibility based on income assistance estimator
No
Worker asks if applicant wishes to proceed
Yes
Yes
No
Worker advises applicant they have right to request reconsideration
Worker explains eligibility issues, including family maintenance and third party checks
Discussion ends
Worker explains responsibilities and orientation and determines if applicant has completed one in last 60 days
Yes
Yes
No
Worker advises applicant of three-week work search requirement.
Is applicant exempt from having to complete orientation?
Worker advises that completing orientation is mandatory. Worker advises that applicant must provide the orientation confirmation # before worker can provide applicant with a Pre-Application (PA) #.
No
Yes
Is applicant exempt from work search?
Yes
No
Worker reviews applicant's efforts to access other income, asks for documents which show how applicant meets the 2-year independence rule, asks if applicant has completed EFT application, reminds applicant of mandatory referral to Family Maintenance Worker if applicable, and reminds applicant again about 3rd party checks.
Worker advises applicant of 14-day call back.
Yes
Does applicant call back?
Yes
During call back, worker reviews and determines if work search satisfactory
Worker asks if applicant wishes to proceed
Yes
No
No
No
Worker advises applicant ENA criteria met, provides day and time of expedited eligibility appt (Stage 2)
Application considered abandoned
Application closed
Worker provides day and time of eligibility appt (Stage 2)
Worker advises that work search not satisfactory and additional search required. Worker advises of next call back date. Worker advises applicant they have right to request reconsideration

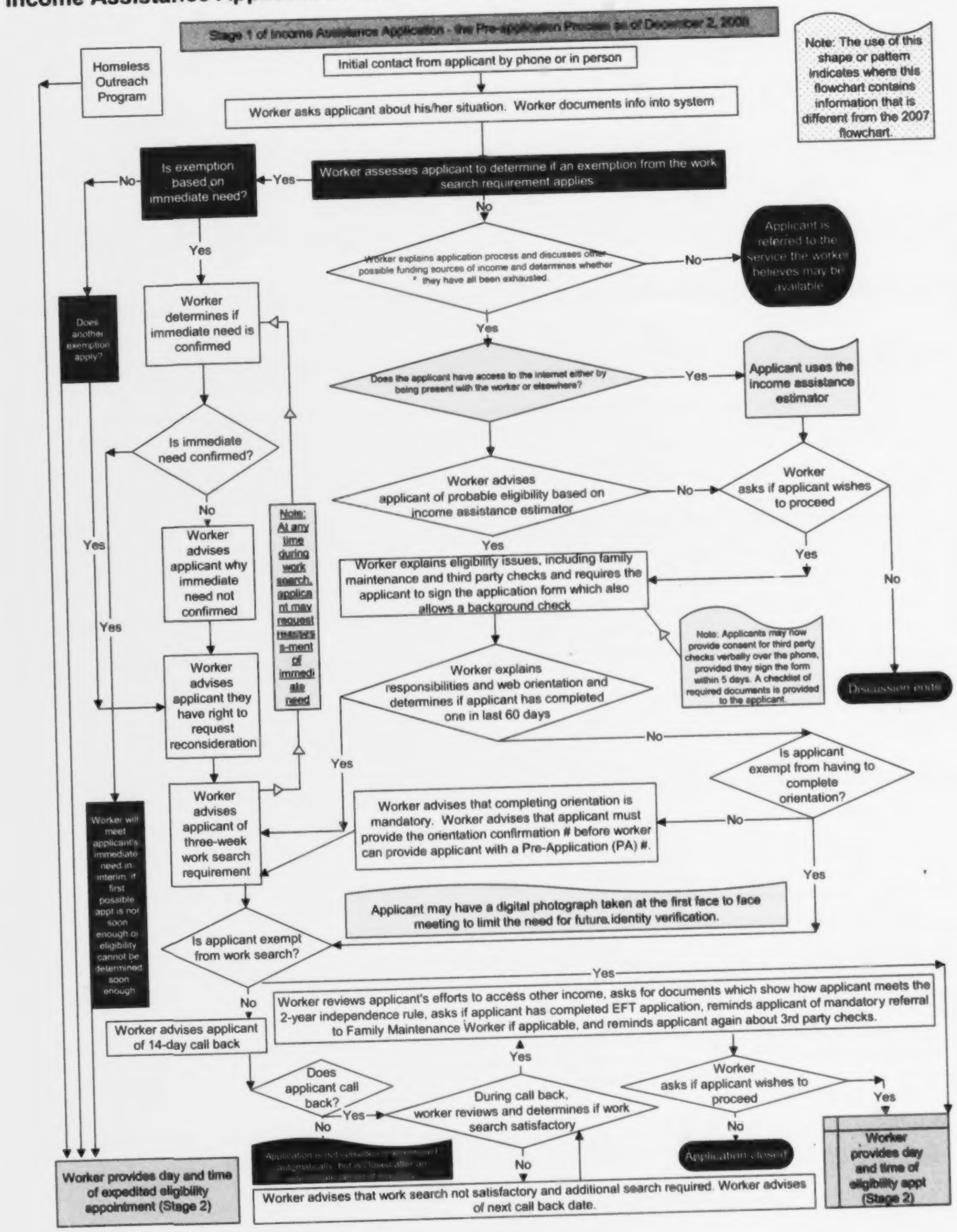
Appendix C

Income Assistance Application Process after October 29, 2007

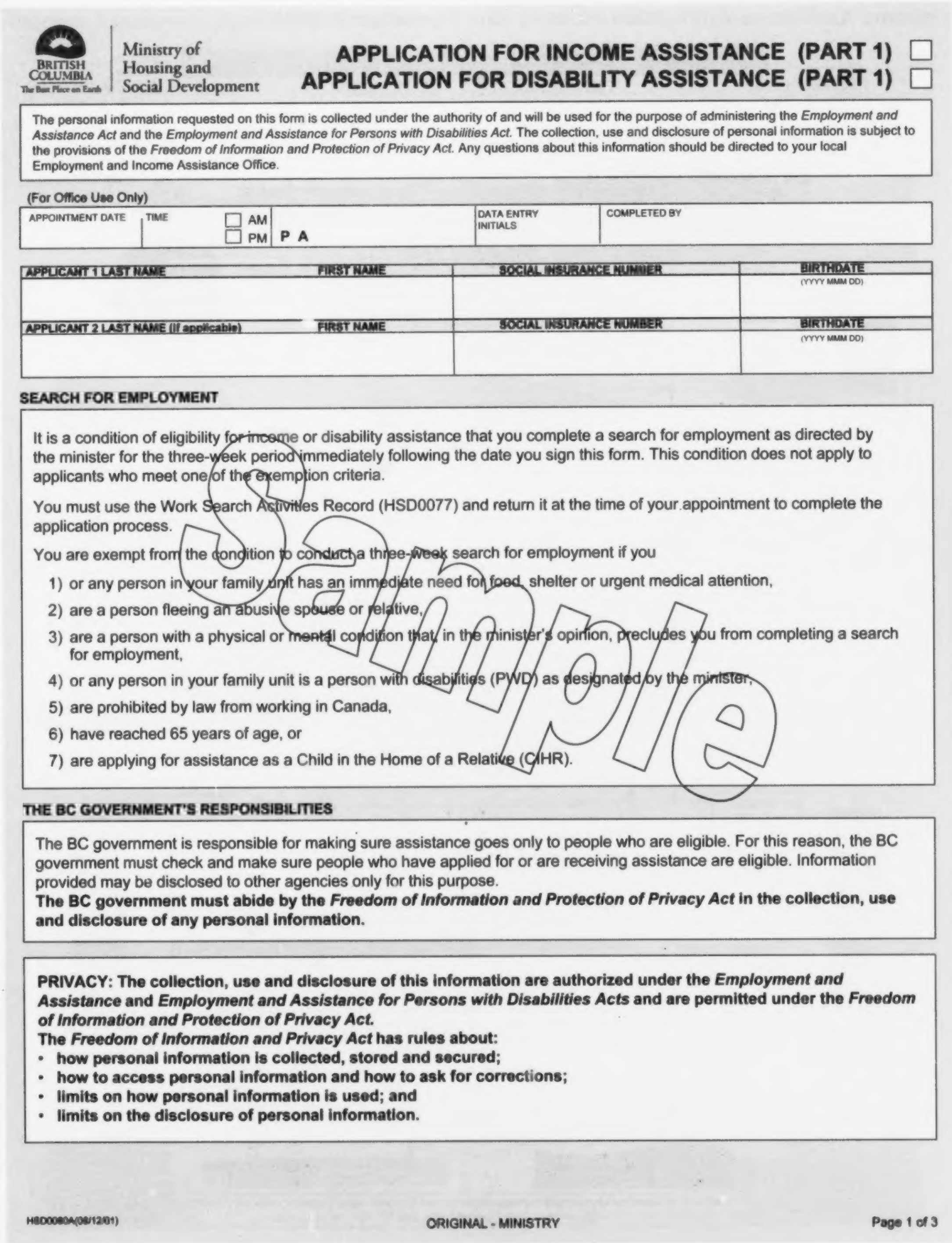

Stage 1 of Income Assistance Application - the Pre-application Process as of October 2007
Note: The use of this shape indicates where this flowchart contains information that is different from the 2005 flowchart.
Homeless Outreach Program
Initial contact from applicant
Worker asks applicant about his/her situation. Worker documents info into system
All applicants will be assessed to determine if they have an exemption from work search requirement
The Emergency Needs Assessment (ENA) will no longer exist. The ENA form will be made obsolete. The term emergency needs will be replaced with immediate needs. Immediate need for food, shelter or urgent medical attention will be included as an exemption from the work search requirement.
Yes
Is exemption based on immediate need?
No
Yes
No
Worker determines if immediate need is confirmed
Does another exemption apply?
Is immediate need confirmed?
No
Worker advises applicant why immediate need not confirmed
Worker advises applicant they have right to request reconsideration
Note: At any time during work search, applicant may request reassess-ment of immediate need
No
Yes
Yes
Worker will meet applicant's immediate need in interim, if first possible appt is not soon enough or eligibility cannot be determined soon enough
Worker advises applicant of three-week work search requirement
Worker explains application process to applicant
Worker describes Phase 1 process and asks if applicant wishes to proceed
No
Discussion ends
Yes
Using info provided and income assistance estimator, worker astimates how much assistance the applicant may be eligible to receive
Worker advises applicant of probable eligibility based on income assistance estimator
No
Worker asks if applicant wishes to proceed
Yes
Yes
No
Worker explains eligibility issues, including family maintenance and third party checks
Discussion ends
Worker explains responsibilities and orientation and determines if applicant has completed one in last 60 days
Yes
No
Is applicant exempt from having to complete orientation?
Worker advises that completing orientation is mandatory. Worker advises that applicant must provide the orientation confirmation # before worker can provide applicant with a Pre-Application (PA) #. Worker determines if applicant has access to any other income and ensures that applicant is aware that failure to pursue this may affect eligibility.
No
Yes
Is applicant exempt from work search?
Yes
No
Worker advises applicant of 14-day call back
Worker reviews applicant's efforts to access other income, asks for documents which show how applicant meets the 2-year independence rule, asks if applicant has completed EFT application, reminds applicant of mandatory referral to Family Maintenance Worker if applicable, and reminds applicant again about 3rd party checks.
Yes
Does applicant call back?
Yes
No
During call back, worker reviews and determines if work search satisfactory
Worker asks if applicant wishes to proceed
Yes
No
Application considered abandoned
No
Application closed
Worker advises that work search not satisfactory and additional search required. Worker advises of next call back date. Worker advises applicant they have right to request reconsideration
Worker provides day and time of expedited eligibility appointment (Stage 2)
Worker provides day and time of eligibility appt (Stage 2)

Appendix D

Income Assistance Application Process after December 2, 2008


Stage 1 of Income Assistance Application - the Pre-application Process as of December 2, 2008
Initial contact from applicant by phone or in person
Worker asks applicant about his/her situation. Worker documents info into system
Note: The use of this shape or pattern indicates where this flowchart contains information that is different from the 2007 flowchart.
Homeless Outreach Program
Worker assesses applicant to determine if an exemption from the work search requirement applies
Yes
Is exemption based on immediate need?
No
Does another exemption apply?
Yes
Worker determines if immediate need is confirmed
Is immediate need confirmed?
No
Yes
Worker advises applicant why immediate need not confirmed
Worker advises applicant they have right to request reconsideration
Note: At any time during work search, applicant may request reassess-ment of immediate need
Worker advises applicant of three-week work search requirement
Worker will meet applicant's immediate need in interim, if first possible appt is not soon enough or eligibility cannot be determined soon enough
No
Worker explains application process and discusses other possible funding sources of income and determines whether they have all been exhausted.
No
Applicant is referred to the service the worker believes may be available
Yes
Does the applicant have access to the internet either by being present with the worker or elsewhere?
Yes
Applicant uses the income assistance estimator
Worker advises applicant of probable eligibility based on income assistance estimator
No
Worker asks if applicant wishes to proceed
Yes
No
Yes
Worker explains eligibility issues, including family maintenance and third party checks and requires the applicant to sign the application form which also allows a background check
Note: Applicants may now provide consent for third party checks verbally over the phone, provided they sign the form within 5 days. A checklist of required documents is provided to the applicant.
Discussion ends
Worker explains responsibilities and web orientation and determines if applicant has completed one in last 60 days
Yes
No
Is applicant exempt from having to complete orientation?
No
Worker advises that completing orientation is mandatory. Worker advises that applicant must provide the orientation confirmation # before worker can provide applicant with a Pre-Application (PA) #.
Yes
Applicant may have a digital photograph taken at the first face to face meeting to limit the need for future identity verification.
Is applicant exempt from work search?
Yes
No
Worker reviews applicant's efforts to access other income, asks for documents which show how applicant meets the 2-year independence rule, asks if applicant has completed EFT application, reminds applicant of mandatory referral to Family Maintenance Worker if applicable, and reminds applicant again about 3rd party checks.
Worker advises applicant of 14-day call back
Does applicant call back?
Yes
No
During call back, worker reviews and determines if work search satisfactory
Yes
No
Worker asks if applicant wishes to proceed
Yes
No
Application closed
Worker provides day and time of expedited eligibility appointment (Stage 2)
Worker advises that work search not satisfactory and additional search required. Worker advises of next call back date.
Worker provides day and time of eligibility appt (Stage 2)

Appendix E



BRITISH COLUMBIA
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Ministry of
Housing and
Social Development

APPLICATION FOR INCOME ASSISTANCE (PART 1) ☐
APPLICATION FOR DISABILITY ASSISTANCE (PART 1) ☐

The personal information requested on this form is collected under the authority of and will be used for the purpose of administering the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*. The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Any questions about this information should be directed to your local Employment and Income Assistance Office.

(For Office Use Only)

APPOINTMENT DATE	TIME	☐ AM ☐ PM	P A	DATA ENTRY INITIALS	COMPLETED BY

APPLICANT 1 LAST NAME	**FIRST NAME**	**SOCIAL INSURANCE NUMBER**	**BIRTHDATE** (YYYY MMM DD)
APPLICANT 2 LAST NAME (if applicable)	**FIRST NAME**	**SOCIAL INSURANCE NUMBER**	**BIRTHDATE** (YYYY MMM DD)

SEARCH FOR EMPLOYMENT

It is a condition of eligibility for income or disability assistance that you complete a search for employment as directed by the minister for the three-week period immediately following the date you sign this form. This condition does not apply to applicants who meet one of the exemption criteria.

You must use the Work Search Activities Record (HSD0077) and return it at the time of your appointment to complete the application process.

You are exempt from the condition to conduct a three-week search for employment if you

1) or any person in your family unit has an immediate need for food, shelter or urgent medical attention,
2) are a person fleeing an abusive spouse or relative,
3) are a person with a physical or mental condition that, in the minister's opinion, precludes you from completing a search for employment,
4) or any person in your family unit is a person with disabilities (PWD) as designated by the minister,
5) are prohibited by law from working in Canada,
6) have reached 65 years of age, or
7) are applying for assistance as a Child in the Home of a Relative (CIHR).

Sample

THE BC GOVERNMENT'S RESPONSIBILITIES

The BC government is responsible for making sure assistance goes only to people who are eligible. For this reason, the BC government must check and make sure people who have applied for or are receiving assistance are eligible. Information provided may be disclosed to other agencies only for this purpose.
The BC government must abide by the *Freedom of Information and Protection of Privacy Act* in the collection, use and disclosure of any personal information.

PRIVACY: The collection, use and disclosure of this information are authorized under the *Employment and Assistance* and *Employment and Assistance for Persons with Disabilities Acts* and are permitted under the *Freedom of Information and Protection of Privacy Act.*
The *Freedom of Information and Privacy Act* has rules about:

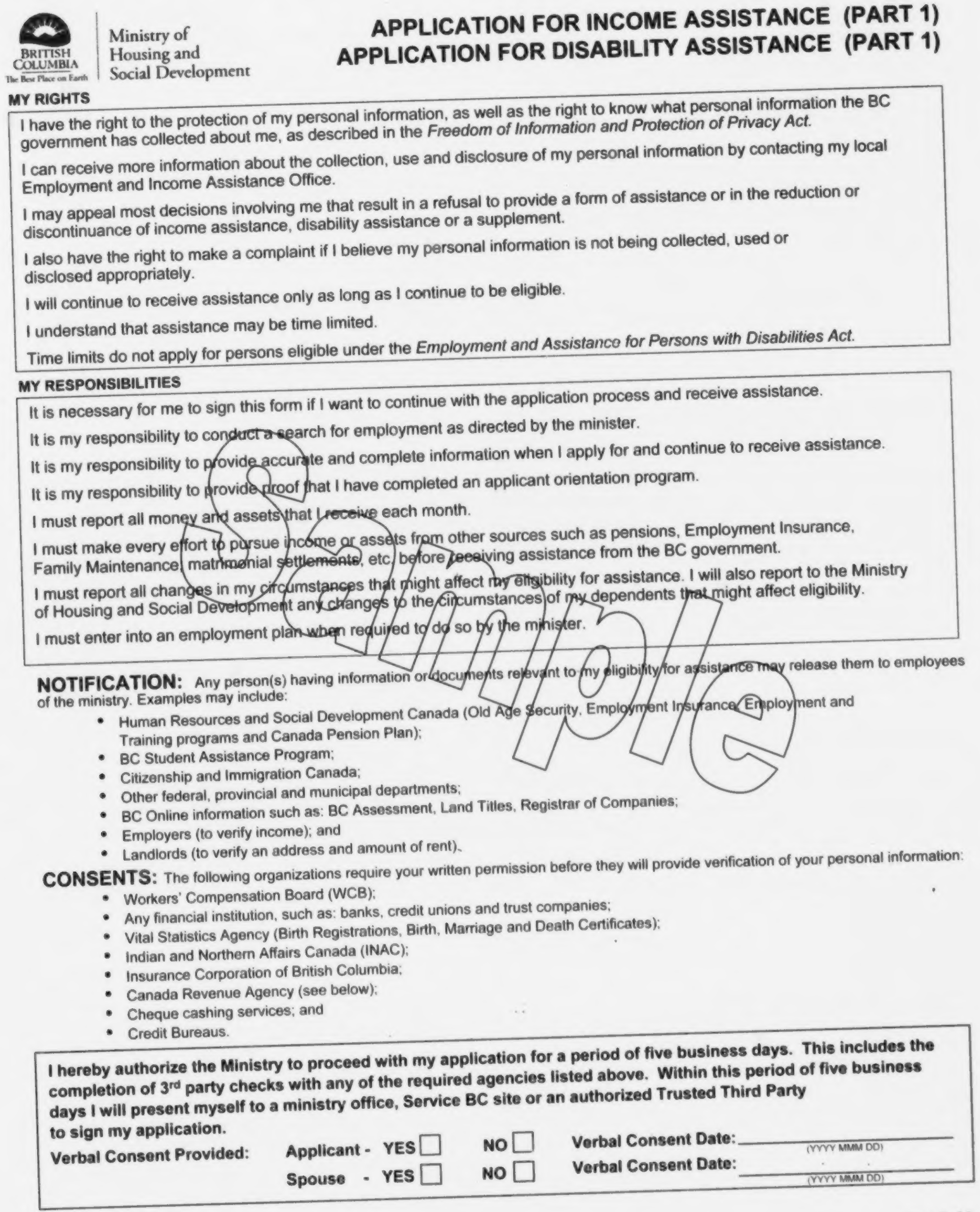
- **how personal information is collected, stored and secured;**
- **how to access personal information and how to ask for corrections;**
- **limits on how personal information is used; and**
- **limits on the disclosure of personal information.**

HSD0080A(08/12/01)

ORIGINAL - MINISTRY

Page 1 of 3

Appendix E



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Ministry of
Housing and
Social Development

APPLICATION FOR INCOME ASSISTANCE (PART 1)
APPLICATION FOR DISABILITY ASSISTANCE (PART 1)

MY RIGHTS

I have the right to the protection of my personal information, as well as the right to know what personal information the BC government has collected about me, as described in the *Freedom of Information and Protection of Privacy Act.*

I can receive more information about the collection, use and disclosure of my personal information by contacting my local Employment and Income Assistance Office.

I may appeal most decisions involving me that result in a refusal to provide a form of assistance or in the reduction or discontinuance of income assistance, disability assistance or a supplement.

I also have the right to make a complaint if I believe my personal information is not being collected, used or disclosed appropriately.

I will continue to receive assistance only as long as I continue to be eligible.

I understand that assistance may be time limited.

Time limits do not apply for persons eligible under the *Employment and Assistance for Persons with Disabilities Act.*

MY RESPONSIBILITIES

It is necessary for me to sign this form if I want to continue with the application process and receive assistance.

It is my responsibility to conduct a search for employment as directed by the minister.

It is my responsibility to provide accurate and complete information when I apply for and continue to receive assistance.

It is my responsibility to provide proof that I have completed an applicant orientation program.

I must report all money and assets that I receive each month.

I must make every effort to pursue income or assets from other sources such as pensions, Employment Insurance, Family Maintenance, matrimonial settlements, etc. before receiving assistance from the BC government.

I must report all changes in my circumstances that might affect my eligibility for assistance. I will also report to the Ministry of Housing and Social Development any changes to the circumstances of my dependents that might affect eligibility.

I must enter into an employment plan when required to do so by the minister.

Sample

NOTIFICATION: Any person(s) having information or documents relevant to my eligibility for assistance may release them to employees of the ministry. Examples may include:

- Human Resources and Social Development Canada (Old Age Security, Employment Insurance, Employment and Training programs and Canada Pension Plan);
- BC Student Assistance Program;
- Citizenship and Immigration Canada;
- Other federal, provincial and municipal departments;
- BC Online information such as: BC Assessment, Land Titles, Registrar of Companies;
- Employers (to verify income); and
- Landlords (to verify an address and amount of rent).

CONSENTS: The following organizations require your written permission before they will provide verification of your personal information:

- Workers' Compensation Board (WCB);
- Any financial institution, such as: banks, credit unions and trust companies;
- Vital Statistics Agency (Birth Registrations, Birth, Marriage and Death Certificates);
- Indian and Northern Affairs Canada (INAC);
- Insurance Corporation of British Columbia;
- Canada Revenue Agency (see below);
- Cheque cashing services; and
- Credit Bureaus.

I hereby authorize the Ministry to proceed with my application for a period of five business days. This includes the completion of 3rd party checks with any of the required agencies listed above. Within this period of five business days I will present myself to a ministry office, Service BC site or an authorized Trusted Third Party to sign my application.

Verbal Consent Provided: **Applicant - YES** ☐ **NO** ☐ **Verbal Consent Date:** ______________ (YYYY MMM DD)

Spouse - YES ☐ **NO** ☐ **Verbal Consent Date:** ______________ (YYYY MMM DD)

HSD0080A(08/12/01)

ORIGINAL - MINISTRY

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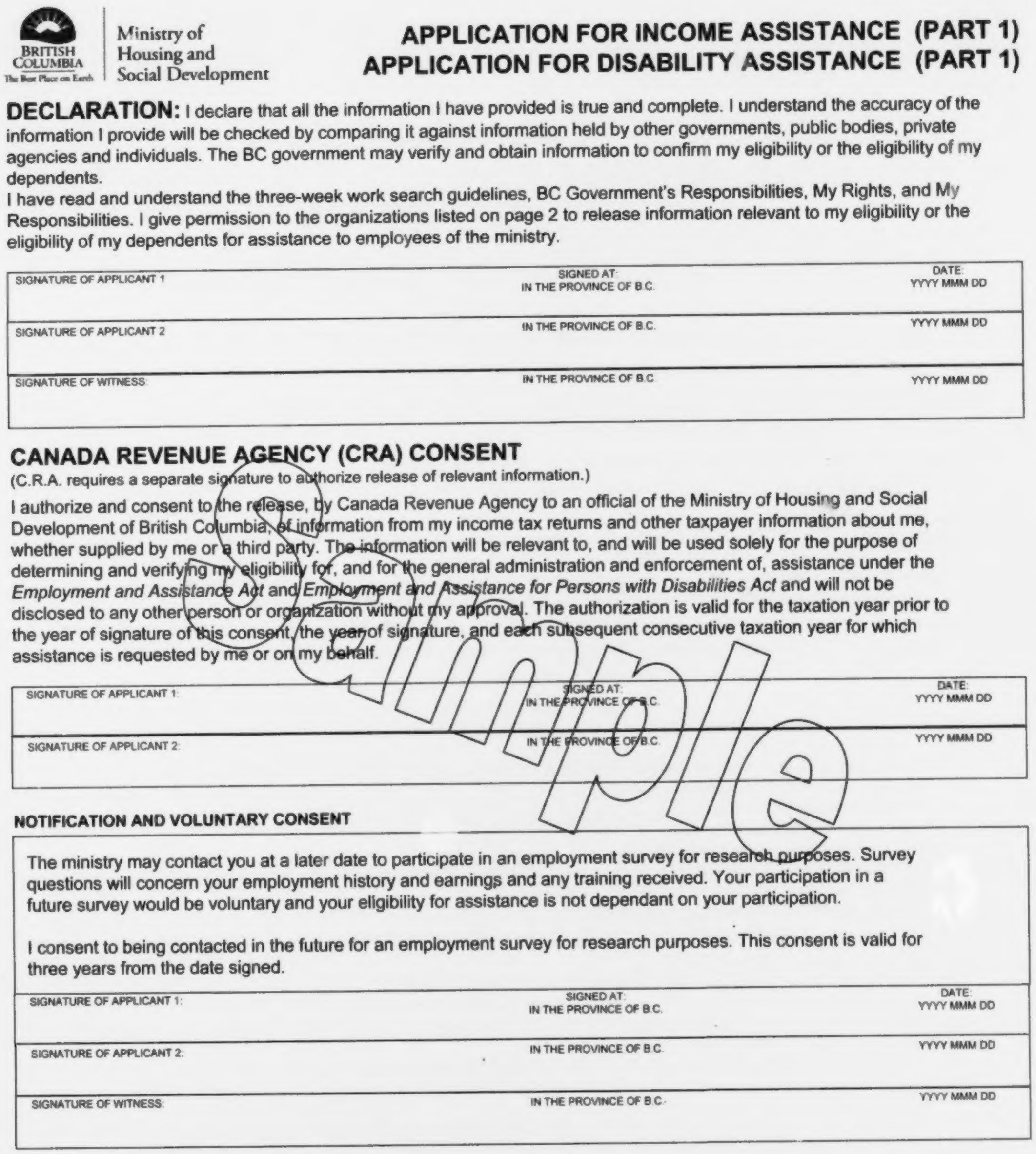
Appendix E



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Ministry of
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APPLICATION FOR INCOME ASSISTANCE (PART 1)
APPLICATION FOR DISABILITY ASSISTANCE (PART 1)

DECLARATION: I declare that all the information I have provided is true and complete. I understand the accuracy of the information I provide will be checked by comparing it against information held by other governments, public bodies, private agencies and individuals. The BC government may verify and obtain information to confirm my eligibility or the eligibility of my dependents.
I have read and understand the three-week work search guidelines, BC Government's Responsibilities, My Rights, and My Responsibilities. I give permission to the organizations listed on page 2 to release information relevant to my eligibility or the eligibility of my dependents for assistance to employees of the ministry.

SIGNATURE OF APPLICANT 1	SIGNED AT: IN THE PROVINCE OF B.C.	DATE: YYYY MMM DD
SIGNATURE OF APPLICANT 2	IN THE PROVINCE OF B.C.	YYYY MMM DD
SIGNATURE OF WITNESS:	IN THE PROVINCE OF B.C.	YYYY MMM DD

CANADA REVENUE AGENCY (CRA) CONSENT

(C.R.A. requires a separate signature to authorize release of relevant information.)

I authorize and consent to the release, by Canada Revenue Agency to an official of the Ministry of Housing and Social Development of British Columbia, of information from my income tax returns and other taxpayer information about me, whether supplied by me or a third party. The information will be relevant to, and will be used solely for the purpose of determining and verifying my eligibility for, and for the general administration and enforcement of, assistance under the *Employment and Assistance Act* and *Employment and Assistance for Persons with Disabilities Act* and will not be disclosed to any other person or organization without my approval. The authorization is valid for the taxation year prior to the year of signature of this consent, the year of signature, and each subsequent consecutive taxation year for which assistance is requested by me or on my behalf.

Sample

SIGNATURE OF APPLICANT 1:	SIGNED AT: IN THE PROVINCE OF B.C.	DATE: YYYY MMM DD
SIGNATURE OF APPLICANT 2:	IN THE PROVINCE OF B.C.	YYYY MMM DD

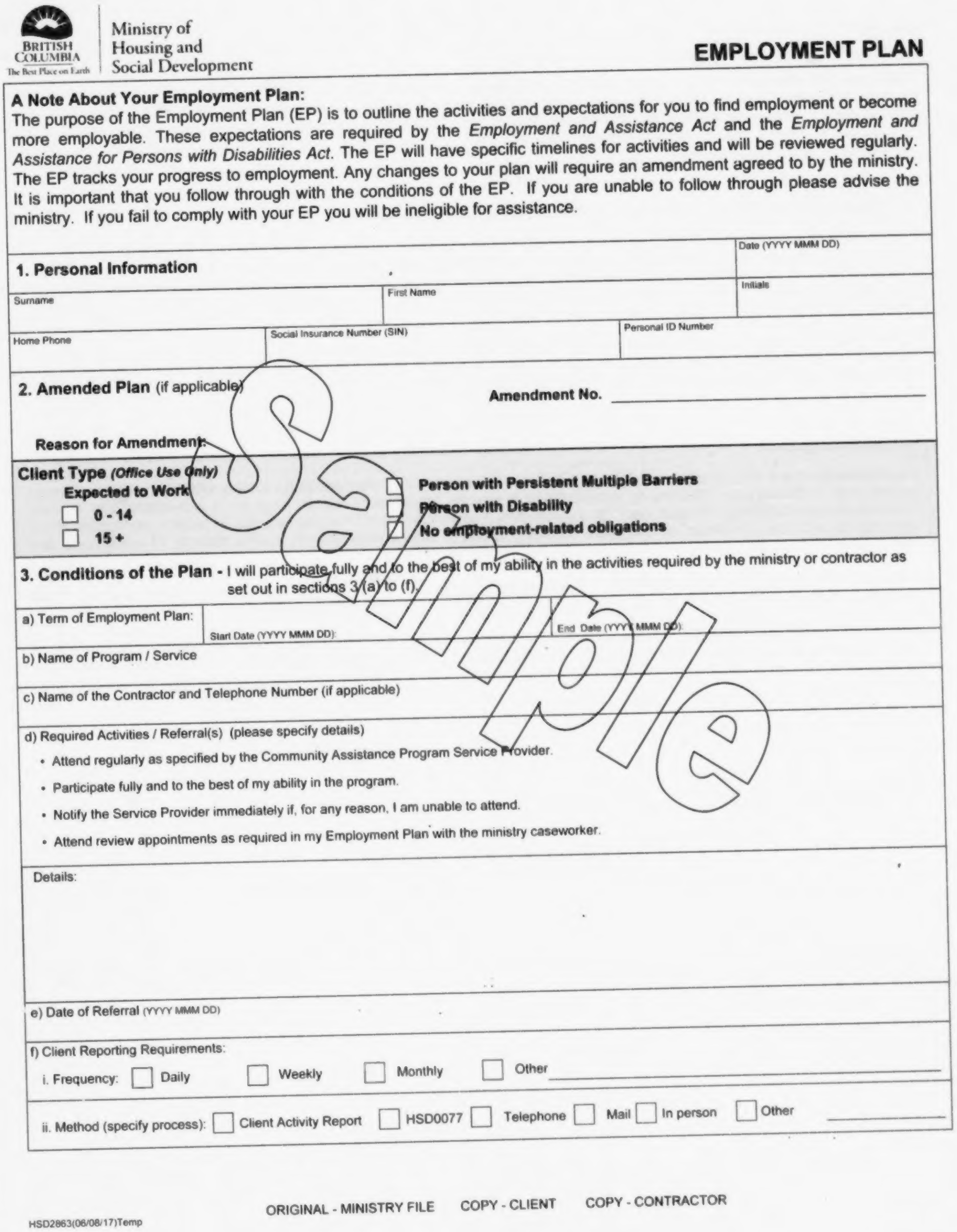
NOTIFICATION AND VOLUNTARY CONSENT

The ministry may contact you at a later date to participate in an employment survey for research purposes. Survey questions will concern your employment history and earnings and any training received. Your participation in a future survey would be voluntary and your eligibility for assistance is not dependant on your participation.

I consent to being contacted in the future for an employment survey for research purposes. This consent is valid for three years from the date signed.

SIGNATURE OF APPLICANT 1:	SIGNED AT: IN THE PROVINCE OF B.C.	DATE: YYYY MMM DD
SIGNATURE OF APPLICANT 2:	IN THE PROVINCE OF B.C.	YYYY MMM DD
SIGNATURE OF WITNESS:	IN THE PROVINCE OF B.C.	YYYY MMM DD

Appendix F



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Ministry of
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Social Development

EMPLOYMENT PLAN

A Note About Your Employment Plan:
The purpose of the Employment Plan (EP) is to outline the activities and expectations for you to find employment or become more employable. These expectations are required by the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*. The EP will have specific timelines for activities and will be reviewed regularly. The EP tracks your progress to employment. Any changes to your plan will require an amendment agreed to by the ministry. It is important that you follow through with the conditions of the EP. If you are unable to follow through please advise the ministry. If you fail to comply with your EP you will be ineligible for assistance.

1. Personal Information		Date (YYYY MMM DD)
Surname	First Name	Initials
Home Phone	Social Insurance Number (SIN)	Personal ID Number

2. Amended Plan (if applicable) **Amendment No.** ____________________

Reason for Amendment:

Client Type ***(Office Use Only)***
Expected to Work
☐ **0 - 14**
☐ **15 +**
☐ **Person with Persistent Multiple Barriers**
☐ **Person with Disability**
☐ **No employment-related obligations**

3. Conditions of the Plan - I will participate fully and to the best of my ability in the activities required by the ministry or contractor as set out in sections 3 (a) to (f).

a) Term of Employment Plan: Start Date (YYYY MMM DD): End Date (YYYY MMM DD):

b) Name of Program / Service

c) Name of the Contractor and Telephone Number (if applicable)

d) Required Activities / Referral(s) (please specify details)

- Attend regularly as specified by the Community Assistance Program Service Provider.
- Participate fully and to the best of my ability in the program.
- Notify the Service Provider immediately if, for any reason, I am unable to attend.
- Attend review appointments as required in my Employment Plan with the ministry caseworker.

Details:

e) Date of Referral (YYYY MMM DD)

f) Client Reporting Requirements:

i. Frequency: ☐ Daily ☐ Weekly ☐ Monthly ☐ Other ____________________

ii. Method (specify process): ☐ Client Activity Report ☐ HSD0077 ☐ Telephone ☐ Mail ☐ In person ☐ Other ____________

ORIGINAL - MINISTRY FILE COPY - CLIENT COPY - CONTRACTOR

HSD2863(08/08/17)Temp

Sample

Appendix F

4. Freedom of Information and Protection of Privacy

The personal information requested on this form is collected under the authority of and will be used for the purpose of administering the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*. The collection, use and disclosure of personal information are subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Specific questions about this form may be directed to a Ministry representative at your local Employment and Assistance Centre.

5. Compliance with Employment Plan and Actions for Non-Compliance

To be eligible for assistance, each applicant or recipient in the family unit must, when required to do so, enter into an employment plan, and comply with the conditions set out in the employment plan. The purpose of an employment plan is to help a person a) find employment, or b) become more employable. Assistance will be discontinued if a person a) fails to demonstrate reasonable efforts to participate in a program in which he or she is required to participate, or b) ceases, except for medical reasons, to participate in the program.

Under the *Employment and Assistance Act* and/or the *Employment and Assistance for Persons with Disabilities Act*, the requirement to enter into or participate in an employment plan is not open to appeal. The conditions of an employment plan may, however, be reconsidered but cannot be appealed to the Employment and Assistance Appeal Tribunal.

Sample

6. Acknowledgement

I acknowledge that it is a condition of eligibility that I sign this employment plan and that I comply with the conditions set out in this plan, including any condition to participate in a specific employment-related program. I understand that ministry contractors have the ability to report back on my activities. I understand that I may be required to provide verification of my compliance with the conditions of this plan, including proof of active work search and/or records of attendance and participation in an employment- related program as required by the ministry.

I further acknowledge and understand that, if the ministry refers me to a specific employment-related program, I will participate fully and to the best of my ability in the activities required by the ministry contractor.

In accordance with the conditions of the *Employment and Assistance Act* and/or the *Employment and Assistance for Persons with Disabilities Act* , I understand that if I do not comply with the conditions of this employment plan, the assistance issued to me and/or my family will be discontinued. I acknowledge that I understand that participation in an employment plan is not open to appeal.

Client Signature	Date Signed (YYYY MMM DD)
Referring Caseworker Name	Office Location

HSD2863(06/08/17)

ORIGINAL - MINISTRY FILE   COPY - CLIENT   COPY - CONTRACTOR

Snapshot of 2007 Ministry Files

Average # of days from ENA request to ENA conducted
84/137 = 0.61

Northern	Interior	Island	Coastal	Fraser
0.5	0.62	1.77	0.44	0.12

Average # of days from when ENA conducted to intake appointment
82/137 = 0.8

Northern	Interior	Island	Coastal	Fraser
0.95	1.1	0.64	0.46	1

Average # of days from ENA request to intake appointment
0.61 + 0.8 = 1.41

Northern	Interior	Island	Coastal	Fraser
1.45	1.72	2.41	0.9	1.12

% of time ENA appointment conducted same day as ENA request
82/137 = 71%

Northern	Interior	Island	Coastal	Fraser
68%	62%	27%	82%	94%

% of time intake appointment conducted within 1 business day of ENA
116/137 = 85%

Northern	Interior	Island	Coastal	Fraser
86%	86%	86%	90%	76%

Average # of days from when client determined exempt
from work search to intake appt: 86/21 = 4.1

Northern	Interior	Island	Coastal	Fraser
0	1	5.67	3.44	5

% of time client given intake appt within 5 days of being
determined exempt from work search: 16/21 = 76%

Northern	Interior	Island	Coastal	Fraser
100%	100%	83%	78%	50%

% of time work search of a single parent (with child under 3
and no daycare) deemed adequate in circumstances: 5/7 = 71%

Average # of days from when single parent's work search was modified,
waived or deemed adequate to intake appt: 39/4 = 9.75

Total # of open files province-wide in Apr and May '07: 7,881
Total # of Apr and May '07 files reviewed: 250 (50 from each region)
% of Apr/May '07 files reviewed / total open files province-wide: 3.17%

Snapshot of 2006 Ministry Files

Average # of days from ENA request to ENA conducted
81/116 = 0.7

Northern	Interior	Island	Coastal	Fraser
0.55	0.5	1.76	0.37	0.3

Average # of days from when ENA conducted to intake appointment
211/115 = 1.83

Northern	Interior	Island	Coastal	Fraser
0.73	1.55	2.17	1.92	2.2

Average # of days from ENA request to intake appointment
0.7 + 1.83 = 2.53

Northern	Interior	Island	Coastal	Fraser
1.28	2.05	3.93	2.29	2.5

% of time ENA appointment conducted same day as ENA request
88/116 = 76%

Northern	Interior	Island	Coastal	Fraser
82%	73%	48%	87%	90%

% of time intake appointment conducted within 1 business day of ENA
71/115 = 62%

Northern	Interior	Island	Coastal	Fraser
91%	68%	63%	58%	45%

Average # of days from when client determined exempt from work search to intake appt: 214/18 = 11.89

Northern	Interior	Island	Coastal	Fraser
10.25	11.5	15	2	16.5

% of time client given intake appt within 5 days of being determined exempt from work search: 6/18 = 33%

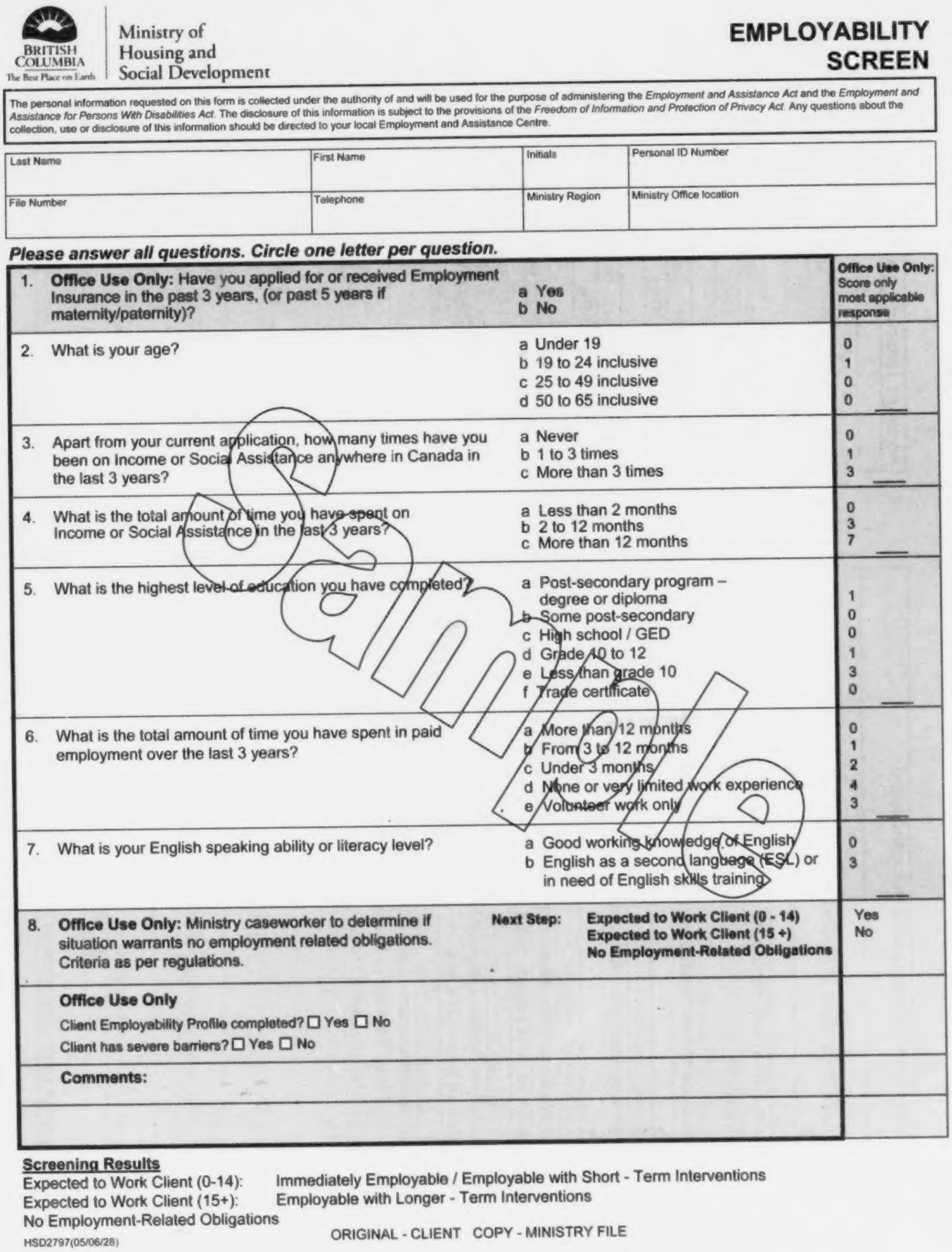
Northern	Interior	Island	Coastal	Fraser
50%	25%	17%	50%	0%

% of time work search of a single parent (with child under 3 and no daycare) deemed adequate in circumstances: 4/7 = 57%

Average # of days from when single parent's work search was modified, waived or deemed adequate to intake appt: 61/5 = 12.2

Total # of open files province-wide in Apr and May '06: 5,229
Total # of Apr and May '06 files reviewed: 250 (50 from each region)
% of Apr/May '06 files reviewed / total open files province-wide: 4.78%

Appendix J



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Ministry of
Housing and
Social Development

EMPLOYABILITY SCREEN

The personal information requested on this form is collected under the authority of and will be used for the purpose of administering the *Employment and Assistance Act* and the *Employment and Assistance for Persons With Disabilities Act*. The disclosure of this information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Any questions about the collection, use or disclosure of this information should be directed to your local Employment and Assistance Centre.

Last Name	First Name	Initials	Personal ID Number
File Number	Telephone	Ministry Region	Ministry Office location

Please answer all questions. Circle one letter per question.

1.	**Office Use Only:** Have you applied for or received Employment Insurance in the past 3 years, (or past 5 years if maternity/paternity)?	a Yes b No	**Office Use Only:** Score only most applicable response
2.	What is your age?	a Under 19 b 19 to 24 inclusive c 25 to 49 inclusive d 50 to 65 inclusive	0 1 0 0 ___
3.	Apart from your current application, how many times have you been on Income or Social Assistance anywhere in Canada in the last 3 years?	a Never b 1 to 3 times c More than 3 times	0 1 3 ___
4.	What is the total amount of time you have spent on Income or Social Assistance in the last 3 years?	a Less than 2 months b 2 to 12 months c More than 12 months	0 3 7 ___
5.	What is the highest level of education you have completed?	a Post-secondary program – degree or diploma b Some post-secondary c High school / GED d Grade 10 to 12 e Less than grade 10 f Trade certificate	1 0 0 1 3 0 ___
6.	What is the total amount of time you have spent in paid employment over the last 3 years?	a More than 12 months b From 3 to 12 months c Under 3 months d None or very limited work experience e Volunteer work only	0 1 2 4 3 ___
7.	What is your English speaking ability or literacy level?	a Good working knowledge of English b English as a second language (ESL) or in need of English skills training	0 3 ___
8.	**Office Use Only:** Ministry caseworker to determine if situation warrants no employment related obligations. Criteria as per regulations.	**Next Step:** **Expected to Work Client (0 - 14)** **Expected to Work Client (15 +)** **No Employment-Related Obligations**	Yes No

Office Use Only

Client Employability Profile completed? ☐ Yes ☐ No

Client has severe barriers? ☐ Yes ☐ No

Comments:

Sample

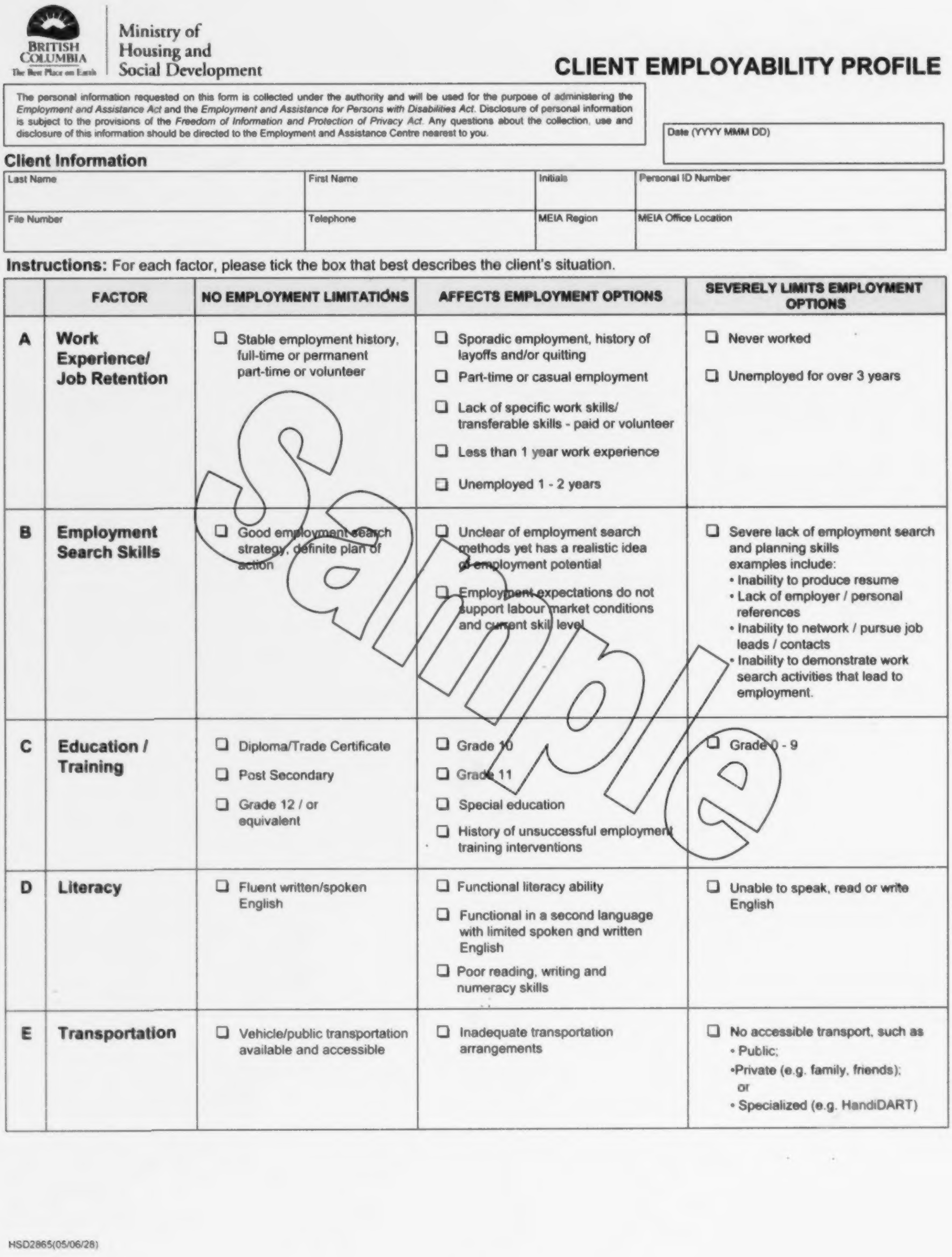
Screening Results

Expected to Work Client (0-14):	Immediately Employable / Employable with Short - Term Interventions
Expected to Work Client (15+):	Employable with Longer - Term Interventions
No Employment-Related Obligations	

HSD2797(05/06/28)

ORIGINAL - CLIENT COPY - MINISTRY FILE

Appendix K



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CLIENT EMPLOYABILITY PROFILE

The personal information requested on this form is collected under the authority and will be used for the purpose of administering the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*. Disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Any questions about the collection, use and disclosure of this information should be directed to the Employment and Assistance Centre nearest to you.

Date (YYYY MMM DD)

Client Information

Last Name	First Name	Initials	Personal ID Number
File Number	Telephone	MEIA Region	MEIA Office Location

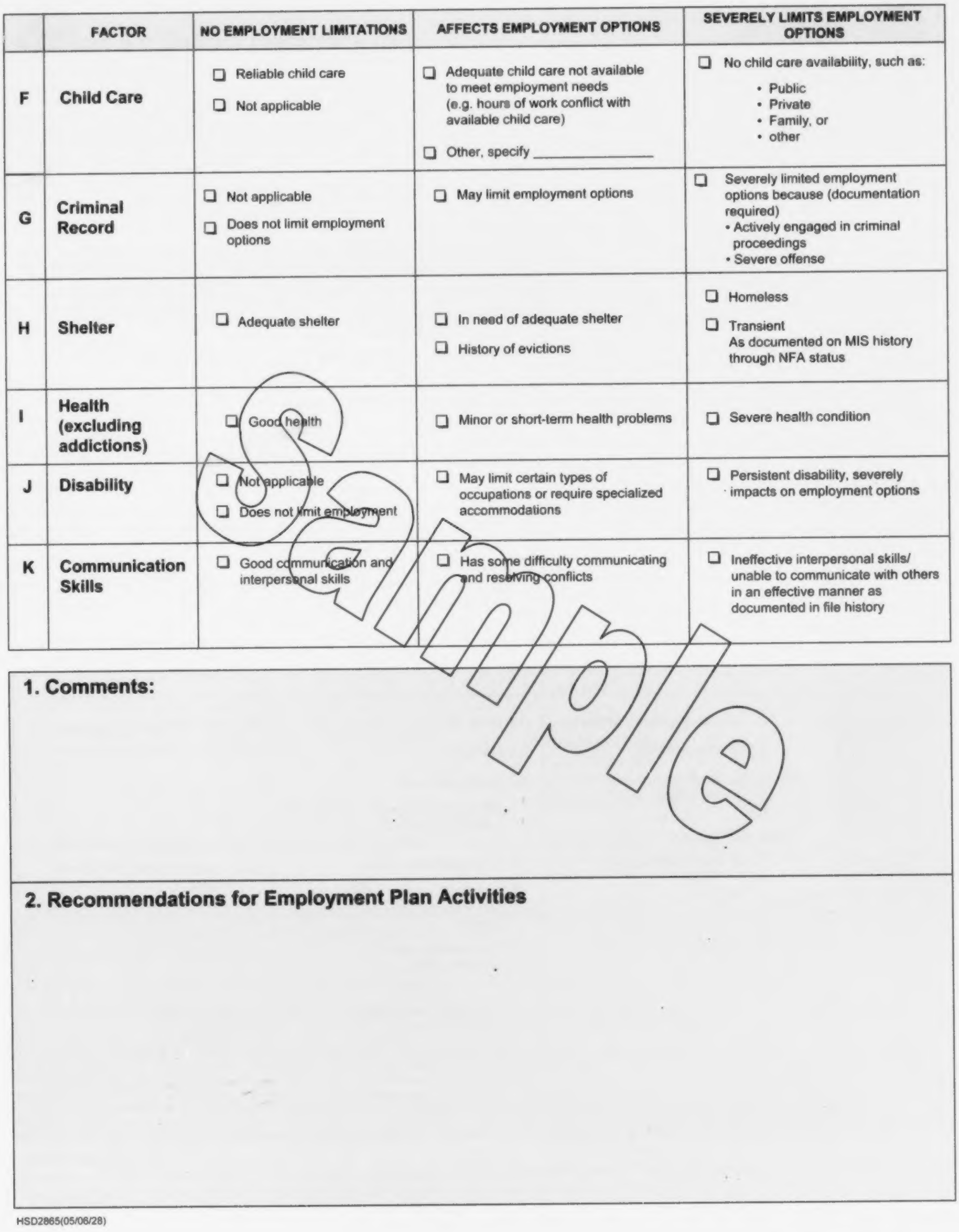
Instructions: For each factor, please tick the box that best describes the client's situation.

	FACTOR	NO EMPLOYMENT LIMITATIONS	AFFECTS EMPLOYMENT OPTIONS	SEVERELY LIMITS EMPLOYMENT OPTIONS
A	**Work Experience/ Job Retention**	☐ Stable employment history, full-time or permanent part-time or volunteer	☐ Sporadic employment, history of layoffs and/or quitting ☐ Part-time or casual employment ☐ Lack of specific work skills/ transferable skills - paid or volunteer ☐ Less than 1 year work experience ☐ Unemployed 1 - 2 years	☐ Never worked ☐ Unemployed for over 3 years
B	**Employment Search Skills**	☐ Good employment search strategy, definite plan of action	☐ Unclear of employment search methods yet has a realistic idea of employment potential ☐ Employment expectations do not support labour market conditions and current skill level	☐ Severe lack of employment search and planning skills examples include: • Inability to produce resume • Lack of employer / personal references • Inability to network / pursue job leads / contacts • Inability to demonstrate work search activities that lead to employment.
C	**Education / Training**	☐ Diploma/Trade Certificate ☐ Post Secondary ☐ Grade 12 / or equivalent	☐ Grade 10 ☐ Grade 11 ☐ Special education ☐ History of unsuccessful employment training interventions	☐ Grade 0 - 9
D	**Literacy**	☐ Fluent written/spoken English	☐ Functional literacy ability ☐ Functional in a second language with limited spoken and written English ☐ Poor reading, writing and numeracy skills	☐ Unable to speak, read or write English
E	**Transportation**	☐ Vehicle/public transportation available and accessible	☐ Inadequate transportation arrangements	☐ No accessible transport, such as • Public; •Private (e.g. family, friends); or • Specialized (e.g. HandiDART)

Sample

HSD2865(05/06/28)

Appendix K.



	FACTOR	NO EMPLOYMENT LIMITATIONS	AFFECTS EMPLOYMENT OPTIONS	SEVERELY LIMITS EMPLOYMENT OPTIONS
F	**Child Care**	☐ Reliable child care ☐ Not applicable	☐ Adequate child care not available to meet employment needs (e.g. hours of work conflict with available child care) ☐ Other, specify ________________	☐ No child care availability, such as: • Public • Private • Family, or • other
G	**Criminal Record**	☐ Not applicable ☐ Does not limit employment options	☐ May limit employment options	☐ Severely limited employment options because (documentation required) • Actively engaged in criminal proceedings • Severe offense
H	**Shelter**	☐ Adequate shelter	☐ In need of adequate shelter ☐ History of evictions	☐ Homeless ☐ Transient As documented on MIS history through NFA status
I	**Health (excluding addictions)**	☐ Good health	☐ Minor or short-term health problems	☐ Severe health condition
J	**Disability**	☐ Not applicable ☐ Does not limit employment	☐ May limit certain types of occupations or require specialized accommodations	☐ Persistent disability, severely impacts on employment options
K	**Communication Skills**	☐ Good communication and interpersonal skills	☐ Has some difficulty communicating and resolving conflicts	☐ Ineffective interpersonal skills/ unable to communicate with others in an effective manner as documented in file history

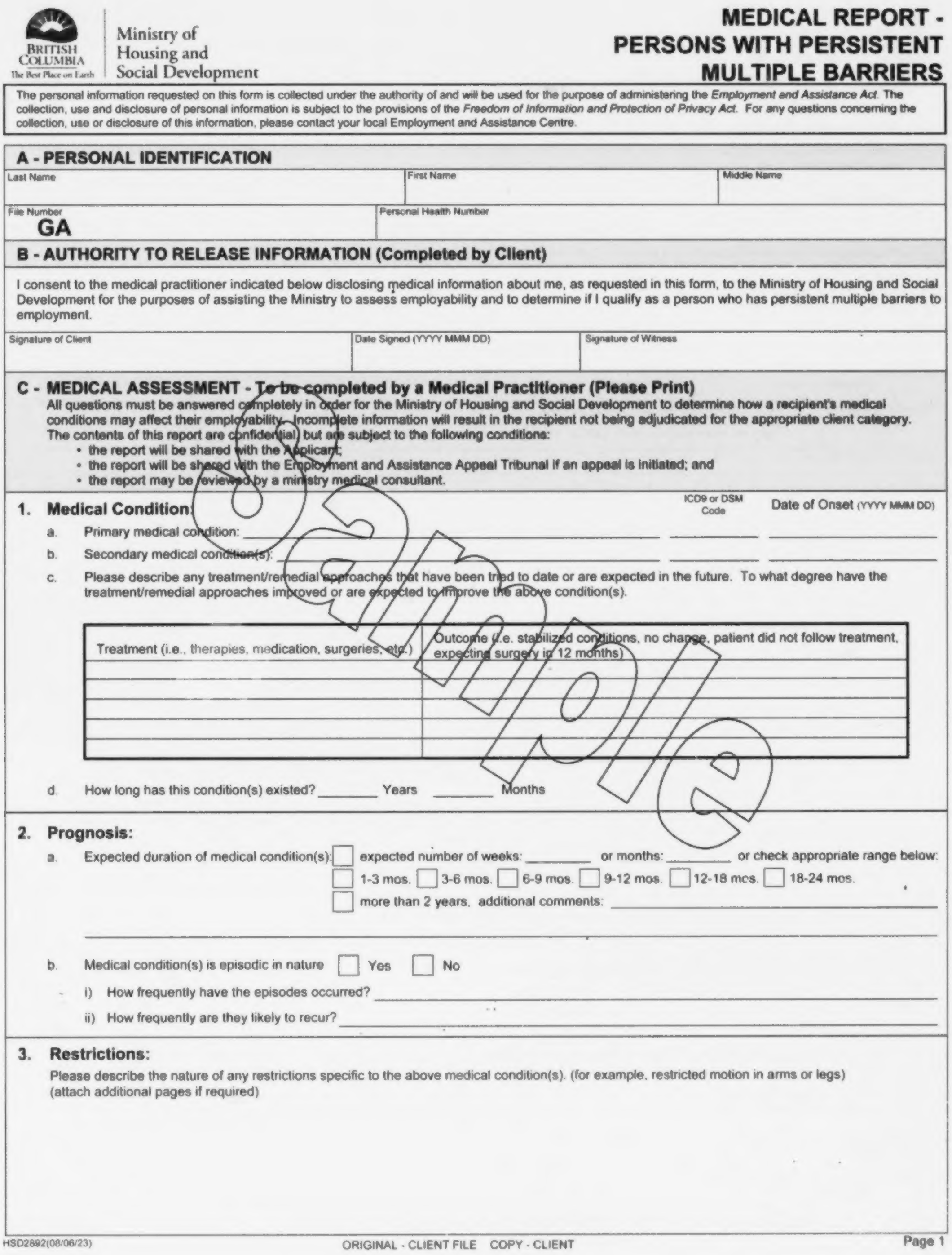
Sample

1. Comments:

2. Recommendations for Employment Plan Activities

HSD2865(05/06/28)

Appendix L



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MEDICAL REPORT -
PERSONS WITH PERSISTENT MULTIPLE BARRIERS

The personal information requested on this form is collected under the authority of and will be used for the purpose of administering the *Employment and Assistance Act*. The collection, use and disclosure of personal information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. For any questions concerning the collection, use or disclosure of this information, please contact your local Employment and Assistance Centre.

A - PERSONAL IDENTIFICATION

Last Name	First Name	Middle Name

File Number GA	Personal Health Number

B - AUTHORITY TO RELEASE INFORMATION (Completed by Client)

I consent to the medical practitioner indicated below disclosing medical information about me, as requested in this form, to the Ministry of Housing and Social Development for the purposes of assisting the Ministry to assess employability and to determine if I qualify as a person who has persistent multiple barriers to employment.

Signature of Client	Date Signed (YYYY MMM DD)	Signature of Witness

C - MEDICAL ASSESSMENT - To be completed by a Medical Practitioner (Please Print)

All questions must be answered completely in order for the Ministry of Housing and Social Development to determine how a recipient's medical conditions may affect their employability. Incomplete information will result in the recipient not being adjudicated for the appropriate client category. The contents of this report are confidential but are subject to the following conditions:

- the report will be shared with the Applicant;
- the report will be shared with the Employment and Assistance Appeal Tribunal if an appeal is initiated; and
- the report may be reviewed by a ministry medical consultant.

1. Medical Condition: ICD9 or DSM Code Date of Onset (YYYY MMM DD)

a. Primary medical condition: ____________ ____________ ____________

b. Secondary medical condition(s): ____________ ____________ ____________

c. Please describe any treatment/remedial approaches that have been tried to date or are expected in the future. To what degree have the treatment/remedial approaches improved or are expected to improve the above condition(s).

Treatment (i.e., therapies, medication, surgeries, etc.)	Outcome (i.e. stabilized conditions, no change, patient did not follow treatment, expecting surgery in 12 months)

d. How long has this condition(s) existed? ________ Years ________ Months

2. Prognosis:

a. Expected duration of medical condition(s): ☐ expected number of weeks: ________ or months: ________ or check appropriate range below:
☐ 1-3 mos. ☐ 3-6 mos. ☐ 6-9 mos. ☐ 9-12 mos. ☐ 12-18 mos. ☐ 18-24 mos.
☐ more than 2 years, additional comments: ____________

b. Medical condition(s) is episodic in nature ☐ Yes ☐ No

i) How frequently have the episodes occurred? ____________

ii) How frequently are they likely to recur? ____________

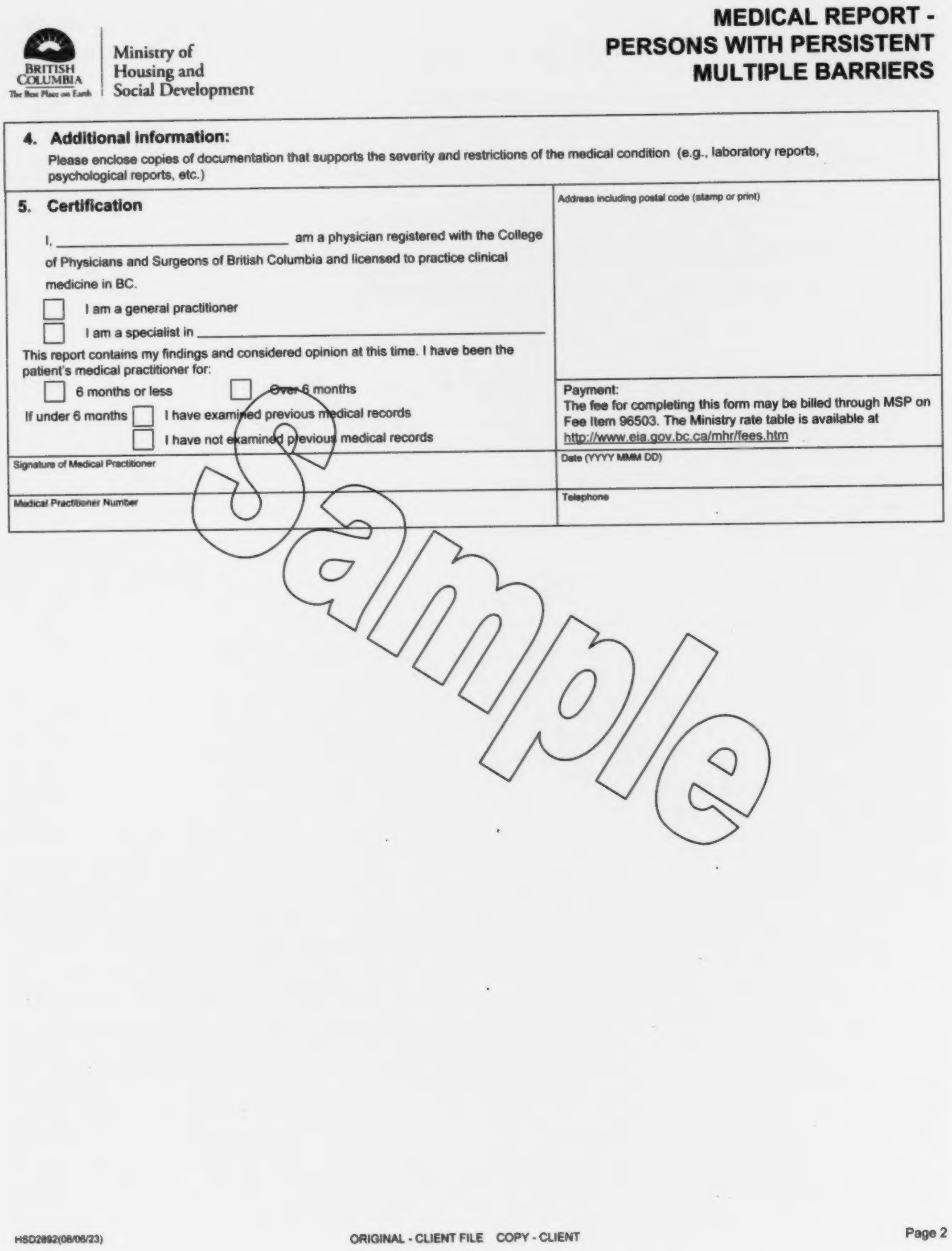
3. Restrictions:

Please describe the nature of any restrictions specific to the above medical condition(s). (for example, restricted motion in arms or legs) (attach additional pages if required)

HSD2892(08/06/23) ORIGINAL - CLIENT FILE COPY - CLIENT Page 1

Sample

Appendix L.



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MEDICAL REPORT - PERSONS WITH PERSISTENT MULTIPLE BARRIERS

4. Additional information:

Please enclose copies of documentation that supports the severity and restrictions of the medical condition (e.g., laboratory reports, psychological reports, etc.)

5. Certification

I, ______________________ am a physician registered with the College of Physicians and Surgeons of British Columbia and licensed to practice clinical medicine in BC.

☐ I am a general practitioner

☐ I am a specialist in ______________________

This report contains my findings and considered opinion at this time. I have been the patient's medical practitioner for:

☐ 6 months or less ☐ Over 6 months

If under 6 months ☐ I have examined previous medical records

☐ I have not examined previous medical records

Address including postal code (stamp or print)

Payment:
The fee for completing this form may be billed through MSP on Fee Item 96503. The Ministry rate table is available at http://www.eia.gov.bc.ca/mhr/fees.htm

Signature of Medical Practitioner

Date (YYYY MMM DD)

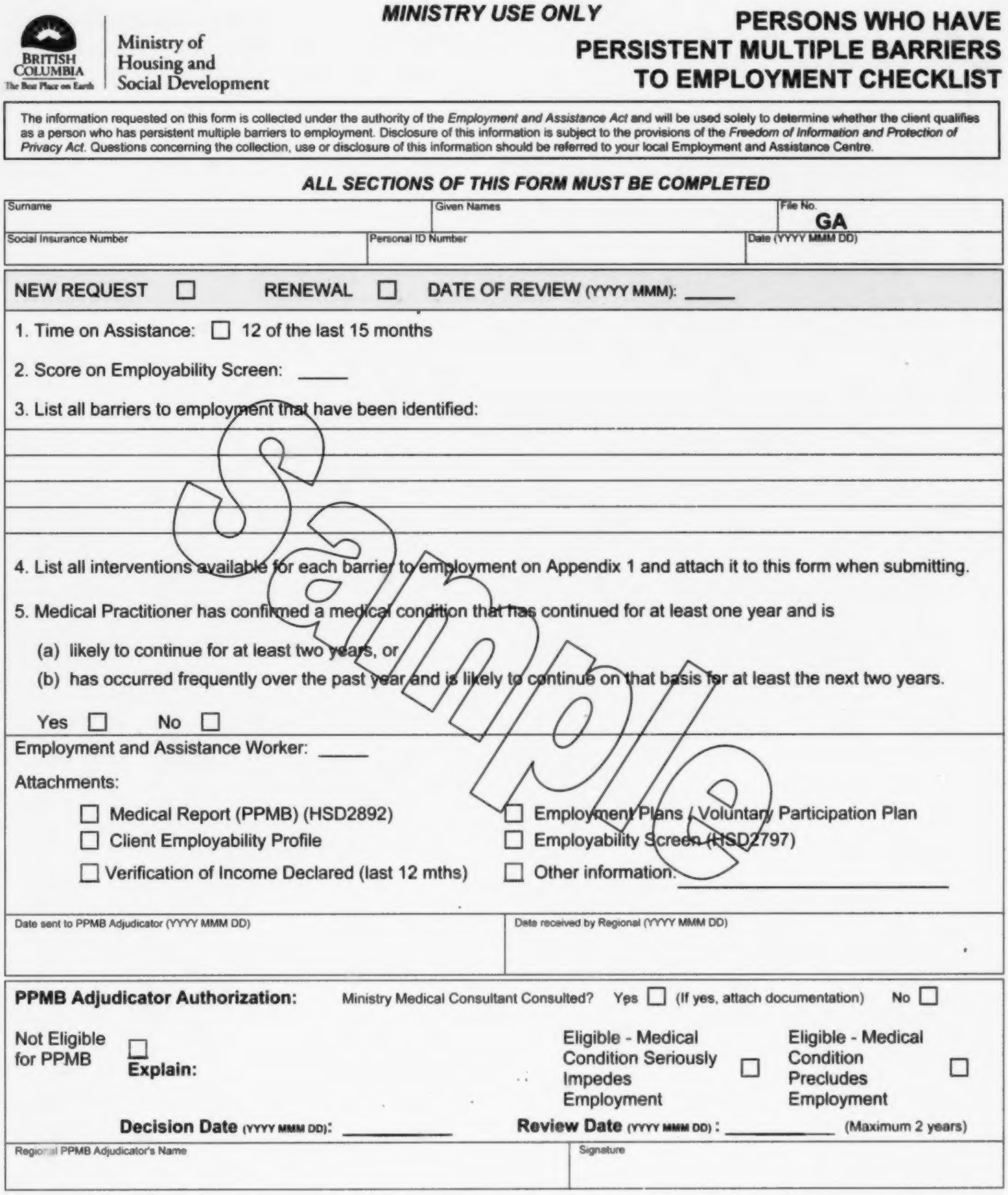
Medical Practitioner Number

Telephone

Sample

HSD2892(08/06/23) ORIGINAL - CLIENT FILE COPY - CLIENT Page 2

Appendix M



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MINISTRY USE ONLY

PERSONS WHO HAVE PERSISTENT MULTIPLE BARRIERS TO EMPLOYMENT CHECKLIST

The information requested on this form is collected under the authority of the *Employment and Assistance Act* and will be used solely to determine whether the client qualifies as a person who has persistent multiple barriers to employment. Disclosure of this information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Questions concerning the collection, use or disclosure of this information should be referred to your local Employment and Assistance Centre.

ALL SECTIONS OF THIS FORM MUST BE COMPLETED

Surname	Given Names	File No. GA
Social Insurance Number	Personal ID Number	Date (YYYY MMM DD)

NEW REQUEST ☐ **RENEWAL** ☐ **DATE OF REVIEW** (YYYY MMM): _____

1. Time on Assistance: ☐ 12 of the last 15 months

2. Score on Employability Screen: _____

3. List all barriers to employment that have been identified:

4. List all interventions available for each barrier to employment on Appendix 1 and attach it to this form when submitting.

5. Medical Practitioner has confirmed a medical condition that has continued for at least one year and is

(a) likely to continue for at least two years, or
(b) has occurred frequently over the past year and is likely to continue on that basis for at least the next two years.

Yes ☐ No ☐

Employment and Assistance Worker: _____

Attachments:

- ☐ Medical Report (PPMB) (HSD2892)
- ☐ Client Employability Profile
- ☐ Verification of Income Declared (last 12 mths)
- ☐ Employment Plans / Voluntary Participation Plan
- ☐ Employability Screen (HSD2797)
- ☐ Other information: ____________________

Date sent to PPMB Adjudicator (YYYY MMM DD)	Date received by Regional (YYYY MMM DD)

PPMB Adjudicator Authorization: Ministry Medical Consultant Consulted? Yes ☐ (If yes, attach documentation) No ☐

Not Eligible for PPMB ☐ **Explain:**

Eligible - Medical Condition Seriously Impedes Employment ☐

Eligible - Medical Condition Precludes Employment ☐

Decision Date (YYYY MMM DD): __________ **Review Date** (YYYY MMM DD): __________ (Maximum 2 years)

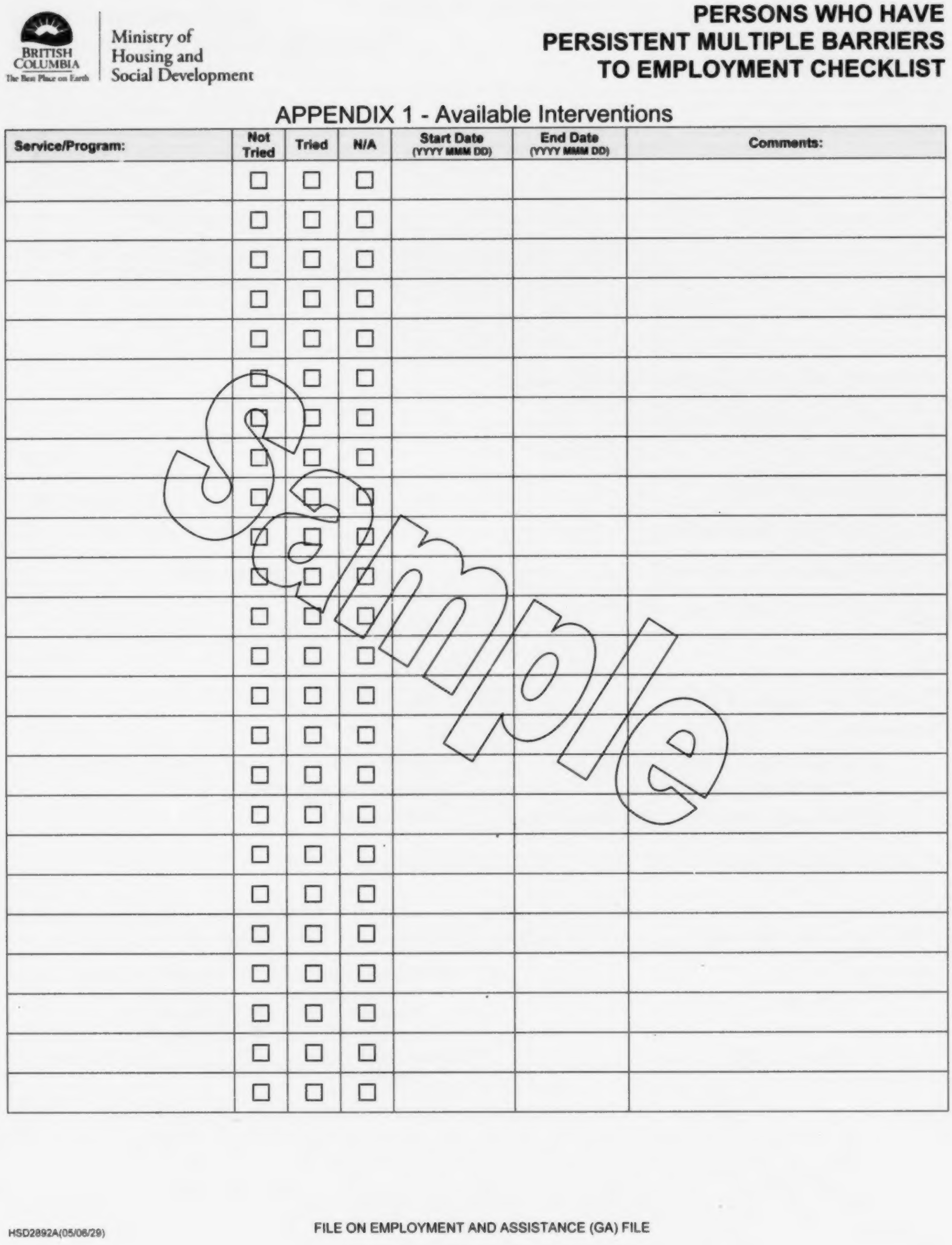
Regional PPMB Adjudicator's Name	Signature

Sample

HSD2892A(05/06/29)

FILE ON EMPLOYMENT AND ASSISTANCE (GA) FILE

Appendix M



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PERSONS WHO HAVE PERSISTENT MULTIPLE BARRIERS TO EMPLOYMENT CHECKLIST

APPENDIX 1 - Available Interventions

Service/Program:	**Not Tried**	**Tried**	**N/A**	**Start Date** (YYYY MMM DD)	**End Date** (YYYY MMM DD)	**Comments:**
	☐	☐	☐			
	☐	☐	☐			
	☐	☐	☐			
	☐	☐	☐			
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	☐	☐	☐			
	☐	☐	☐			

Sample

HSD2892A(05/06/29)

FILE ON EMPLOYMENT AND ASSISTANCE (GA) FILE

Snapshot of 2008 Ministry Files

Average # of days from INA request to INA conducted
13/185 = 0.07

Northern	Interior	Island	Coastal	Fraser
0	0	0.24	0.05	0.03

Average # of days from when INA conducted to intake appointment
302/185 = 1.63

Northern	Interior	Island	Coastal	Fraser
2.06	1.86	1.59	1.29	1.5

Average # of days from INA request to intake appointment
0.07 + 1.63 = 1.7

Northern	Interior	Island	Coastal	Fraser
2.06	1.86	1.83	1.34	1.53

% of time INA appointment conducted same day as INA request
173/185 = 94%

Northern	Interior	Island	Coastal	Fraser
100%	100%	78%	95%	98%

% of time intake appointment conducted within 1 business day of INA
109/185 = 59%

Northern	Interior	Island	Coastal	Fraser
54%	50%	49%	71%	68%

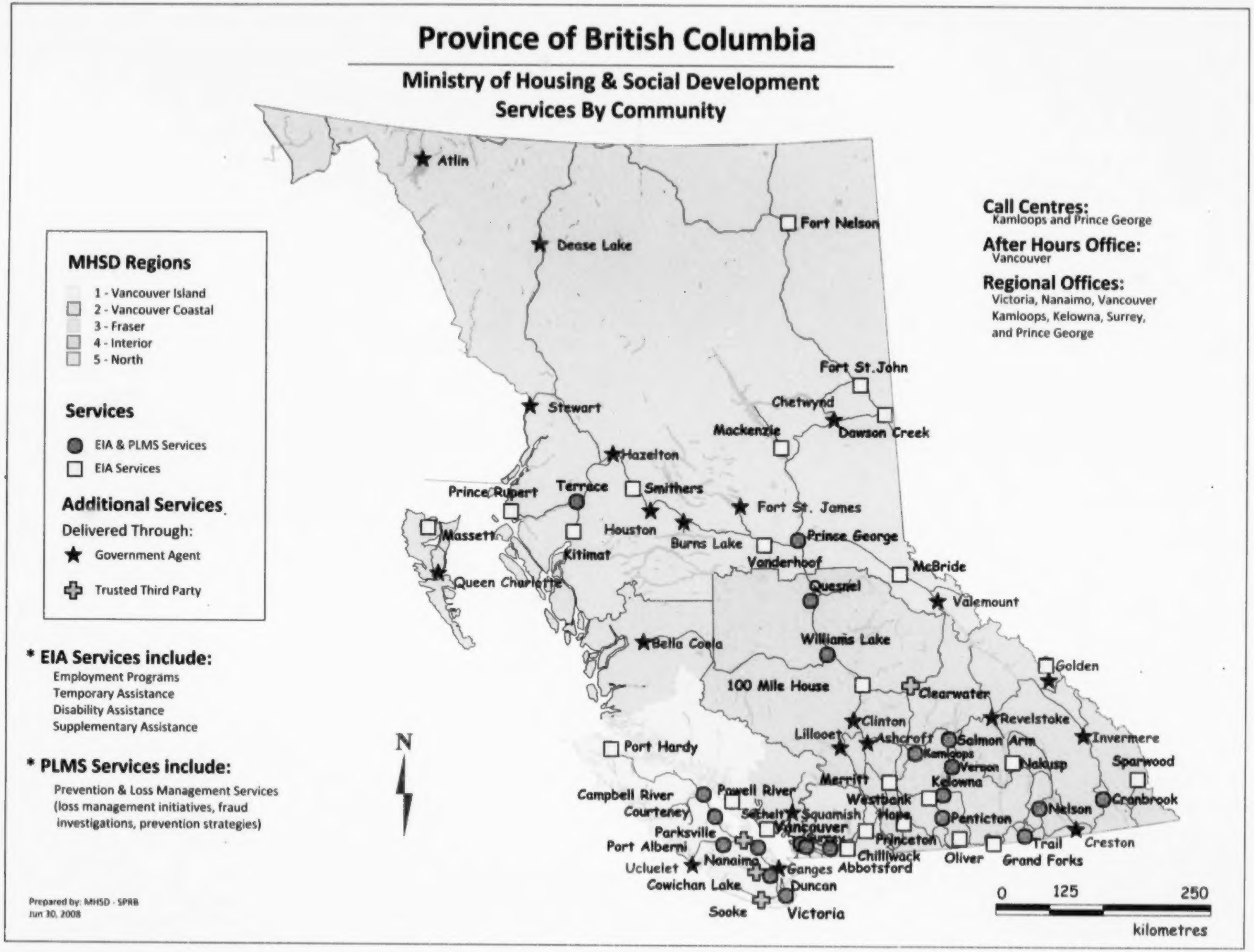
Average # of days from when client determined exempt
from work search to intake appt: 190/33 = 5.76

Northern	Interior	Island	Coastal	Fraser
8.67	5	5.33	8.3	4.3

% of time client given intake appt within 5 days of being
determined exempt from work search: 22/33 = 67%

Northern	Interior	Island	Coastal	Fraser
33%	73%	67%	67%	70%

Total # of open files province-wide in Apr and May '08: 8,218
Total # of Apr and May '08 files reviewed: 250 (50 from each region)
% of Apr/May '08 files reviewed / total open files province-wide: 3.04%



Province of British Columbia

Ministry of Housing & Social Development
Services By Community

MHSD Regions
1 - Vancouver Island
2 - Vancouver Coastal
3 - Fraser
4 - Interior
5 - North
Services
● EIA & PLMS Services
☐ EIA Services
Additional Services
Delivered Through:
★ Government Agent
✚ Trusted Third Party
Call Centres:
Kamloops and Prince George
After Hours Office:
Vancouver
Regional Offices:
Victoria, Nanaimo, Vancouver
Kamloops, Kelowna, Surrey,
and Prince George
Atlin
Dease Lake
Fort Nelson
Fort St.John
Chetwynd
Dawson Creek
Mackenzie
Stewart
Hazelton
Prince Rupert
Terrace
Smithers
Fort St. James
Houston
Burns Lake
Prince George
Massett
Kitimat
Vanderhoof
McBride
Queen Charlotte
Quesnel
Valemount
Williams Lake
Bella Coola
Golden
100 Mile House
Clearwater
Clinton
Revelstoke
Lillooet
Ashcroft
Salmon Arm
Invermere
Port Hardy
Kamloops
Vernon
Nakusp
Sparwood
Merritt
Kelowna
Campbell River
Powell River
Westbank
Cranbrook
Courtenay
Sechelt
Squamish
Hope
Penticton
Nelson
Parksville
Vancouver
Surrey
Princeton
Trail
Creston
Port Alberni
Chilliwack
Oliver
Grand Forks
Ucluelet
Nanaimo
Ganges
Abbotsford
Cowichan Lake
Duncan
Sooke
Victoria
N
0
125
250
kilometres

*** EIA Services include:**

- Employment Programs
- Temporary Assistance
- Disability Assistance
- Supplementary Assistance

*** PLMS Services include:**

Prevention & Loss Management Services (loss management initiatives, fraud investigations, prevention strategies)

Prepared by: MHSD - SPRB
Jun 30, 2008

Mailing Address:

Office of the Ombudsman
756 Fort Street, 2nd Floor
PO Box 9039 Stn Prov Govt
Victoria BC V8W 9A5

Telephone:

General Inquiries Victoria: (250) 387-5855
Toll Free: 1-800-567-3247

Fax:

(250) 387-0198

Or visit our website at:

http://www.ombudsman.bc.ca